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ABSTRACT

Against the policy purposes of the U.S. immigration and international education programs, this report examines several problem areas selected on the basis of their significant relevance to: (1) U.S. foreign policy, (2) congressional interest or concern, recommendations advanced. Problem areas include: (1) foreign and exchange students, (2) brain drains and overflows, (3) illegal aliens and legitimate refugees, and (4) special Mexico/U.S.A. considerations. The paper is designed primarily as a stimulator and reference guide for policy makers and practitioners, and for those who influence them. (Author/PC)

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TOWARD IMPROVED U.S. IMMIGRATION AND INTERNATIONAL

EDUCATION PROGRAMS

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INTERNATIONAL EDUCATION PROGRAMS

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PREFACE

Genesis and Acknowledgements

The convergence on my active consciousness of two seemingly unrelated concerns spurred a research endeavor which resulted in this paper. My interest in the foreign student visa and employment situations was animated by Jennifer Stephens of Harvard and Eugene R. Chamberlain of M.I.T. I was drawn to alien control problems by Ernest B. Dane of the Visa Office. All three have been helpful throughout.

Having been overseas a decade, I had been seeking a public policy subject involving significantly some U.S. domestic dynamics as well as foreign relations. In this regard the project almost exceeded my expectations. Delving into the concerns originally addressed, I found other topics to be pertinent. The scope widened from foreign student and alien control program to some fundamental immigration and international education policy questions.

Security and Consular Affairs Administrator Barbara Watson encouraged this independent study. Deputy Administrator Frederick Smith, Jr., Director John R. Diggins, Jr. and others in the Visa Office provided much assistance. So did Deputy Assistant Secretary for Educational and Cultural Affairs William K. Hitchcock, and among others in that Bureau, Paul A. Cook and Marita T. Houlihan.

Commissioner Chapman and a score of his colleagues in the Immigration and Naturalization Service were splendidly cooperative. I wish to thank especially Deputy Commissioner Greene, Assistant Commissioner Bernsen, and Directors Coomey and Williams of the Boston and San Francisco District Offices, respectively. Never have I encountered finer public servants.

My perception of the relevant Congressional scene was considerably enhanced by Garner J. Cline, Dale S. de Haan and several others on The Hill. Officers of the National Association for Foreign Student Affairs, particularly Alex Bedrosian and Hugh M. Jenkins, furnished considerable material and stimulation, as did foreign students in Cambridge. Charles B. Keely was of signal assistance, as were Gregory Henderson and several other authors of works cited.

At an early stage the counsel of Robert R. Bowie, Roger Revelle and Raymond Vernon was useful in my effort to conceptualize the project. Benjamin H. Brown rendered invaluable support. The Harvard Library system, in the persons of W. E. Winters and several others, responded very well to my divers needs. My gratitude to the typists, notably Nancy Palmer and Cathy Cox, is profound. Other acknowledgements appear subsequently.

Limitations

For conclusions reached, recommendations made, and factual errors, I alone am responsible. Portions of the analysis diverge from contemporary Washington policy and practice as I comprehend it. When I started the project last December I was an expert on none of the topics discussed herein. Nor am I much of one now. Time did not permit adequate treatment of several issues, or the further re-editing the paper needs. But there may be in it something of modest interest to most who have ventured this far.

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I. INTRODUCTION

The conceptual framework of this study is straightforward. Against policy purposes of U.S. immigration and international education programs, several problem areas are examined. Reasonable options for ameliorative action are noted, and recommendations advanced.

The paper is designed primarily as a stimulator and reference guide for policy makers and practitioners, and for those who influence them. Of Harold Lasswell's Seven Policy Outcomes, the study perforce deals with the first two: intelligence, or the gathering, processing and dissemination of information to participants in policy decisions and choices; and to some extent promotion, or the use of persuasive or coercive means of influencing decisions and choices. (Note: Patently, no means of coercion are available to this promoter.) To the degree that this work is constructively provocative in these regards, the author may be partially forgiven for not having been able in five months of part-time research to construct impressive-looking matrices, or to be positively paradigmatic.

Helpful as an overall intellectual guide has been Lasswell's definition of the policy sciences as problem-oriented and involving five intellectual tasks, as indicated by these questions: What are the value goals of the policy? What are the trends to date in goal realization? What con-

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ditioning factors (conditions) account for the direction and intensity of these trends? What are the most probable projections of future developments in the realization of goals? What alternatives will yield the highest net realization of goal values?¹ In the historical survey and the treatments of problem areas, avoidance has been sought of what Warren F. Ilchman terms the Error of Exhaustive Explanation. Whereas aspects of some of the policy questions treated require more research and public consideration, about others enough (though not "everything") is known to permit the formulation of rational policy choices.

The treatment of policy consensuses (or lack thereof) is interspersed with preliminary indications of how present practice deviates in some respects from presumed principles. Then, in a synoptic historical review, the persistence of certain notions is remarked.

The problem areas surveyed are selected on the basis of significant relevance to: (1) U.S. foreign policy considerations; (2) indications of Congressional interest and concern, or (3) the public need, as perceived by the writer, for action on other issues which do not appear in early May 1974 to command notable attention in Washington.

¹Harold D. Lasswell, "Population Change and Policy Sciences: Proposed Workshops on Reciprocal Impact Analysis", paper (Center for Population Studies, Harvard University, 1973) p.1.

II. U.S. IMMIGRATION AND INTERNATIONAL EDUCATION PURPOSES

A. Immigration

Since 1965, the law has reflected a national "openness" consensus favoring immigration without discrimination on the basis of national origin. It is designed to facilitate the reunion of families, the measured influx of persons with needed skills, and the welcoming of political refugees. These are worthy purposes.

Presidents Kennedy and Johnson urged the basic reform incorporated in the extensive 1965 amendments to the Immigration and Nationality Act.¹ In a 1971 address to the American Committee on Italian Immigration, President Nixon stated, "I hope America will always be the land of the open door because as long as that door is open . . . this land will continue to grow and prosper and continue to have that drive which makes a great nation . . ." ²

Secretary of State Kissinger recently observed:

America is the most open nation in the world - open to new ideas, new challenges and new citizens. No nation offers its newest citizens more opportunity and no nation has benefited more from their talents and aspirations. We remain a young nation in spirit for we are constantly rejuvenated from abroad. We remain a nation on the frontiers of excellence and

¹Edward W. Kennedy was the floor manager in the Senate. See his "Immigration Law: Some Refinements and New Reforms", The International Migration Review, Vol. IV, No. 12 (Spring, 1970), p. 4.

²The International Institute of San Francisco, Annual Report 1972.

knowledge for we have the most open frontiers ¹

The law is heavily weighted in favor of relatives of U.S. citizens or permanent resident aliens. Citizens' immediate family members are exempt from the numerical limitations.² Under the Eastern Hemisphere preference system 74% of the 170,000 "quota" numbers available annually are reserved for other relatives, 20% for professionals and others whose skills are in short supply, and 6% for refugees. Although serious question is raised about the continued inclusion of married brothers and sisters in preference category, the relative preference concept enjoys virtually unanimous public support.

We engage, however, in a kind of "hemispheric discrimination" in that the generally equitable method of distributing Eastern Hemisphere immigrant visa numbers on the basis of relative or occupational preference is lacking in our Western Hemisphere (WH) procedure. No preference system

¹November 2, 1973 Message to Annual Conference of the American Immigration and Citizenship Conference, AICC News Vol. XIX, No. 5, 1973.

²Spouses and children of U.S. citizens, and parents of citizens at least 21 years of age, fall outside the numerical limitation. Immigration and Nationality Act, 6th Edition (Washington: U.S. Government Printing Office, 1969), p. 198. A limitation of 20,000 per independent country applies in the Eastern Hemisphere, but not in the Western Hemisphere.

obtains within the overall annual hemispheric limitation of 120,000 (not counting citizens' immediate family members). Thus, WH immigration is on a first-come, first-served basis. The visa waiting period is now about 26 months, for the computer-trained sister of a U.S. citizen and the unschooled "new seed" immigrant alike. (Both require labor certification.) The lack of a WH preference system tends to reinforce other pressures for illegal entries and mala fide applications for nonimmigrant visas. INS Commissioner Leonard P. Chapman, Jr., former Marine Corps Commandant, has stressed the positive relevance of WH immigration reform to the serious illegal alien problem.¹

The professional and "needed skills" preference concept too has the general support of the American public, although concern is evinced in some quarters about our drawing trained people from poor countries. Canada and the United Kingdom, among others, also thus encourage immigration of those whose talents can be well utilized in the economy without disadvantaging other residents. However, our immigration labor certification procedure is unwieldy, and negligible in macroeconomic effect. Moreover, the determination of what skills are needed is often in dispute.

¹Address before the American Immigration and Citizenship Conference, New York, April 26, 1974. Text from the Commissioner's office.

Decisions in recent years have tended to deny de facto subsidies in the form of cheap foreign labor. Thus, agricultural producers and affluent housewives, for instance, have been stimulated toward more mechanization and payment of higher wages for help. The health care business is a major exception to this trend. Executive personnel practices of multinational corporations were recognized by the creation in 1970 of a nonimmigrant visa category for intra-company transferees. In Fiscal Year 1973, almost 9,000 such transferees were admitted.¹

The striking in 1965 of discrimination based on national origin put largely to rest a lengthy national debate about the maintenance of a high degree of ethnic "Nordic" or European homogeneity in our immigration mix.² Absolute and relative increases in arrivals from Asia are locking the principle of ethnically non-discriminatory immigration into the U.S. political system. However, acute observers see an anti-alien climate developing again. A

¹ Immigration and Naturalization Service, 1973 Annual Report (Washington, Superintendent of Documents, GPO, 1974), Table 17.

² In 1969, pleas for a special quota for Irish immigration without labor certification requirement were turned aside by the pertinent House Subcommittee. U.S. Congress, House of Representatives. December 10, 1969 Hearings before Subcommittee No.1 of the Committee on the Judiciary on "The Effect of the Act of October 3, 1965 on Immigration from Ireland and Northern Europe". Serial No.28.

few magazines and newspapers stress rather dramatically the heavier Asian component of our immigrant mix. Foreign-trained physicians are subject to resentment.¹ The preponderance of Mexicans among illegal aliens reinforces difficulties for our Mexican-Americans.

During the years when he actively chaired the House Judiciary Subcommittee on Immigration, Peter W. Rodino, Jr. frequently stressed the need for more orderly and equitable immigration. Considerable disorder and inequity remain in practice. As many as three to six million illegal aliens are with us.² Many are exploited. Some are on welfare. Deception is common on the part of visitors who, after legal entry, disappear or seek to adjust to permanent residence status. Fraudulency abounds. Care must be taken lest abuses of the immigration system combine with socio-economic frustrations in ways which could fuel ever-present inclinations towards rank nativism.

U.S. refugee programs since World War II have been liberal, reasonably adaptive, and widely supported by the public. Our willingness to accept refugees who flee from dire situations helps to encourage other nations to accept

¹Leslie Aldridge Westoff, "A Nation of Immigrants: Should We Pull Up the Gangplank?" The New York Times Magazine, September 16, 1973. Samuel Lubell confirmed to the present writer that this resentment is widespread, and occasions much comment about lack of suitable opportunity for minority citizens in the medical profession.

²INS Deputy Commissioner James F. Greene, personal communication, February 27, 1974; Commissioner Leonard R. Chapman, Jr., quoted in New York Times, May 19, 1974, p. 7.

fair shares of those rendered homeless by political, racial or religious persecution. The Congress wants always to be fully consulted prior to the exercise of the Attorney General's parole authority in emergency refugee situations,¹ but no responsible voices are raised in favor of reversing refugee immigration policy.

Regarding the quantum of legal immigration, broad national consensus is weakening. The venerable immigration/population growth issue was revived in earnest by the Report of the Commission on Population Growth and the American Future. The majority of the Commission recommended "that immigration levels not be increased, and that immigration policy be reviewed periodically to reflect demographic conditions and considerations".² Some Commissioners felt that the number of legal immigrants should be decreased (from 400,000) to about 200,000 over 5 years.³ The Commission urged that the illegal alien problem be resolutely tackled and that in this connection enforcement

¹Joshua Eilberg, "New Goals of U.S. Immigration Policy", Address before American Immigration and Citizenship Conference, November 2, 1973. From Congressional Record - Extensions of Remarks, November 27, 1973, pp. E7522 and 7523. Eilberg now chairs the key house immigration body, renamed the Subcommittee on Immigration, Citizenship and International Law.

²Population and the American Future (New York: Signet-New American Library, 1972) p. 206.

³ibid. p. 205.

capabilities be strengthened significantly.

These views reflect serious concerns, honestly engendered. Elements of the population lobby use impressive-appearing statistics in efforts to convince us that "too much" of our population growth results from immigration. Other demographic experts question the statistical formulations, and perceive a tendency to blame immigration for various social and economic ills not properly attributable to it.

In terms of political clout, the immigration lobby is considerably stronger than such organizations as Zero Population Growth, which questions the current quantity of legal immigration. This disparity in influence on the Congress is likely to obtain well into the future. It is highly doubtful that drastic limitations on legal immigration will be imposed in the next decade or two. However, reason demands that population growth and distribution be taken into careful account in considering how the Immigration and Nationality Act may be amended and administered so as to serve our national interests better.

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B. International Education

At the Sixth Special Session of the United Nations General Assembly, Secretary General Waldheim depicted six major problems in the "global emergency". Among them were mass poverty, rapid population growth, and food and energy shortages.¹ Progress toward the resolution of these problems will require, inter alia, the massive application of trained brainpower. In his "Challenges of Interdependence" address on the same forum, Secretary Kissinger spoke of science and technology becoming our most precious resource. He called for joint cooperation to meet the needs for more productive and labor intensive agriculture, for improved birth control technology, for the application of energy research, and for study of possibly devastating climatic changes.² One can not reflect upon such statements, or Robert L. Heilbroner's gloomy appraisal of "The Human Prospect",³ without question-

¹The New York Times, April 13, 1974.

²Department of State News Release, April 15, 1974.

³The New York Review, January 24, 1974.

ing the complex of immigration law and regulations, educational systems, pressure group politics, and socio-economic processes which determine the sometimes contradictory roles played by the U.S. in the development and utilization of other countries' human resources.

In terms of its international position, one of the most valuable national resources the U.S. has is its higher education system. For almost two centuries American colleges and professional schools have attracted foreign students and scholars. The first significant long-range U.S. educational program for foreigners resulted from a 1908 decision to remit part of the Boxer Rebellion Indemnity, and from 1919 to 1939 approximately 1,000 Chinese students came to the U.S. annually.¹ Our contemporary official exchange program began with PL 79-584, the Fulbright Act, in 1946. As of mid-1972, more than 110,000 grantees (excluding short-termers) had participated in the exchange program. About two-thirds were foreign.²

The currently applicable law for our government-sponsored programs is the Fulbright-Hays Mutual Educational and Cultural Exchange Act of 1961. Its Statement of Purpose includes the enablement of the U.S. Government to strengthen our international ties "by demonstrating the educational and cultur-

¹J.W. Fulbright, "A Quarter-Century of Educational Exchange: Values and Perspectives" School and Society, (Summer, 1972), p. 298.

²ibid., p. 300.

al interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world". There has been broad agreement with Senator Fulbright's conviction that the exchange program "represents one of the soundest investments the United States and other countries can make in the cause of peace", but he acknowledges that the public's support cannot be translated into an effective lobbying force on any consistent basis.¹ This observation is underscored by the fact that the Congress has appropriated no money to implement the 1966 International Education Act which was designed to support the expansion of international studies.

The vast majority of foreign students and professional trainees, however, have come without official sponsorship. Some are wholly supported by their families, some are assisted by the host institutions² or other organizations, some work part-time. Most foreign students return to their home countries to live and work. Many achieve leading positions. Zulficar Ali Bhutto springs to mind.

Whether here under official or other sponsorship, on their own, or a combination of the three, foreign students are

¹A singular distortion of the original exchange visitor concept, involving an effective lobby, is discussed in Chapter IV.

²In 1900 some 1,300 Cuban schoolteachers came on Army transport ships for special summer courses as guests of Harvard University. *ibid.*, p. 298.

regarded by thoughtful American educators and students as bearers of unique assets to our campuses. Parochialism is not a virtue in an interdependent world. The University of Minnesota's recent "International Education: A Statement of Purpose" puts the case for foreign students well. It reads in part:

The University recognizes that in this inter-dependent world, the welfare of the state and the well-being of its citizens are linked to the welfare of all mankind. Thus, it is urgent that the teaching, research and service of the state university support the economic and social development of the state, the nation, and other countries, protect the world environment, lead individuals and groups to better understanding of themselves and others, and contribute toward international understanding, world peace, and community self-awareness.

The University, in serving the community, recognizes that its major responsibility is to educate students from Minnesota in a manner that provides them with the understanding, skills, and knowledge that will allow them to be creative citizens of the state, the nation, and the world. In this process of education, students from other countries and Minnesota students who have studied abroad play an essential role.

To accomplish these goals, the University of Minnesota encourages and seeks to have students from abroad in its enrollment in undergraduate, professional and graduate colleges, in such numbers and with such geographic origins as to have

an impact on the achievement of the University's educational goals.¹

Until recent years the U.S. provided a remarkably hospitable environment for foreign students. Scholarships, research assistantships, and other financial aids often were available, and foreign students could, as need arose, usually get a good dose of the Puritan work ethic in off-campus employment. The climate for foreign students has cooled. Costs have soared. Research grants have dwindled. Teaching fellowships are being abolished. Properly, universities have allocated relatively more of their declining resources to disadvantaged American minorities. An official perception of foreign students as a significant threat in the labor market has resulted in administrative actions which further biased the student visa process toward the wealthy; obtaining permission for off-campus employment has become more difficult. One wonders which potential Ministers for Health and Family Planning in Bangladesh, for Agriculture in Indonesia, or for Petroleum in Nigeria, are not now finding it possible to conduct useful graduate work in the U.S.

¹Personal communication from Dr. Forrest G. Moore, Professor of Education and Director of International Student Adviser's Office, University of Minnesota, Twin Cities, April 17, 1974. Dr. Moore afforded the writer much help.

Not all foreign students and professional trainees, of course, return home. A significant proportion remains here, having savored better material conditions and found improved professional opportunities. As Karl W. Deutsch put it, America is a habit forming country.¹ Especially if from poor countries, those who stay draw attention as participants in brain drains or overflows. Controversies about the flow of skilled personnel from less developed to more developed countries have abated somewhat since the late 1960s, but the hard issues posed have not been satisfactorily resolved. The national parasitism involved in staffing many of our health care positions with medical graduates, technicians and nurses from poor countries is hardly cause for satisfaction. It is questionable whether our own long-term interests are best served when Filipina nurses flock to the U.S. for uncertain training and cut-rate employment, rather than remaining home to work, say, in the family planning field.

The issue, then, goes beyond the question of whether we should be kinder to, or tougher on, foreign students. The issue is whether or not a new U.S. consensus can be built for a more purposeful structure of international human resources development and utilization. A welter of inter-

¹Lecture at Harvard University, February 11, 1974.

related questions bears consideration: the selection and financing of foreigners who wish to study here, the relevance of U.S. (and foreign) academic programs to the world's development needs, the ease with which many "nonimmigrants" can become permanent residents, Western Hemisphere immigration reform, control of illegal immigration, unsatisfactory labor certification procedures, underproduction of American medical and paramedical personnel, and many others. As an illustration of the socio-politico-economic complexity of these matters, it will suffice to note here that a sharp dispute exists about the inclusion of foreign students and vocational trainees in the same visa category.

Patently, the consensus-building endeavor must involve not only the Congress and the Administration, but also and importantly the universities, state legislatures, labor and business leaders, and foundations, as well as a host of "traditional" lobbyists and public interest groups yet to be marshalled.

III. HISTORICAL SURVEY OF U.S. IMMIGRATION

Thomas Jefferson's view that there existed a "natural right which all men have of relinquishing the country in which birth or other accident may have thrown them, and seeking sustenance and happiness wheresoever they may be able to find them",¹ dominated American immigration practice until 1882. Numerical limitation was not imposed until 1921.

A. Volume and Origin

In 1650 the colonial population was 52,000, in 1700 275,000.² The white population reached 1 million in 1750, and by 1790, when the first census was taken, 3¼ million, 75% of whom were of British origin. Migration to the U.S. became the greatest mass movement of people in history.³ 10 million immigrated between 1820 and 1880, 23.5 million between 1881 and 1920. Nearly 90% came from Europe. Of these, 80% were from northern and western Europe in the period 1881-90, whereas between 1911 and 1920, 77% came from southern and eastern Europe. Peak immigration was during the years 1905-14 when it totaled 10.1 million. In the first decade after imposition of quotas in 1921, 4 million quota

¹John Higham, "American Immigration Policy in Historical Perspective", Law and Contemporary Problems, Spring, 1956, p. 214.

²U.S. Department of Justice, "Our Immigration", (Washington: GPO, 1972) p. 1. Several other facts cited in this section were drawn from this pamphlet.

³ibid. p.1. The post-1939 movement of people into Trans-Ural areas of the USSR has been called the greatest single population movement in the world. L.S. Stavrianos, "The Global Redistribution of Man", in Franklin D. Scott, ed., World Migration in Modern Times (Englewood Cliffs: Prentice-Hall, 1968), p. 177.

immigrants were admitted; less than a million came in the 1930s. Nonquota immigration from the Western Hemisphere, principally from Canada, nearly equalled quota immigration from 1925 to 1940. Of the 3 million immigrants between 1946 and 1959, two-thirds were from Germany, Canada, Mexico, the UK and Italy. During the next decade 3.3 million more came, many from Cuba.

With the abolishment of discriminatory national quotas, immigration increased from such countries as China, India, Korea, and the Philippines. Average annual immigration from India, for instance, was 478 between 1953 and 1965;¹ in Fiscal Year 1972 it was almost 17,000. Prior to the 1965 Act, Eastern Hemisphere national quotas totalled about 158,000, but usually only 100,000 were used. The raising of the hemispheric limit to 170,000 thus made 70,000 additional numbers available. These are being absorbed on a preference basis by Asians.² The imposition of a 120,000 limit, without a preference system, on the Western Hemisphere, contributed sig-

¹Charles B. Keely, "The Immigration Act of 1965: A study of the Relationship of Social Science Theory to Group Interest and Legislation", Ph.D. dissertation, Fordham University, 1970, p. 93.

²John R. Diggins, Jr., Director, Visa Office, Address before American Immigration and Citizenship Conference, New York, April 26, 1974.

nificantly to a decline of immigration from Canada and to an increase from such countries as Trinidad. The FY 73 figures were 8,900 and 7,000, respectively.¹

Of the 400,000 immigrants admitted in FY 73, about 153,000 were from North America (Mexico, West Indies, Canada), 124,000 from Asia, 68,000 from southern and eastern Europe, 25,000 from northern and western Europe, 20,000 from South America, and 7,000 from Africa.² In terms of immigrant visas issued in FY 73, the top dozen countries were Mexico with 67,000; Cuba 24,000 (includes 20,000 adjustments), Korea 23,000, China and Italy 21,000 each, Dominican Republic 14,000, India 13,000, Greece and Portugal 11,000 each, Great Britain and Jamaica 10,000 each, and Yugoslavia 8,000.³ Pressures on immigrant visa availabilities are strong in the Western Hemisphere, where numbers allocated for issuance in May, 1974 were for applicants with priority dates only before February 22, 1972, and in the Philippines, where the third preference (professional) category was backlogged to November, 1969 and numbers in lower preference categories unavailable.⁴

¹INS 1973 Annual Report, p. 30.

²ibid., p. 3. Figures rounded to nearest thousand.

³1973 Report of the Visa Office (Washington: U.S. GPO, 1974), p. 6. Figures rounded to nearest thousand.

⁴Visa Office, "Availability of Immigrant Visa Numbers for May, 1974", Vol. II, No. 76.

Many analyses of immigration trends elide the emigration factor, which has often been a significant one. Indeed, net immigration statistics are hard to come by. As many as 1.9 million people may have returned to Italy from the U.S. in the first third of this century.¹ Perhaps half of the immigrants from Bulgaria and Serbia in the 19th and early 20th centuries returned home.² Of the total of 40 million immigrants from 1890 to 1950, about 70% remained in the U.S. permanently.³

B. Push and Pull Factors

Throughout our history people have found refuge in the U.S. from political, religious and ethnic persecution or discrimination. Uganda Asians will not be the last such people. But usually, differentials in economic opportunity have predominated among the motives of immigrants. They still do. Pertinent economic interactions can be only lightly touched upon here.

¹George R. Gilkey, "The United States and Italy: Migration and Repatriation", in Scott, op. cit., p. 45.

²Myron Weiner, "Political Demography: An Inquiry into the Political Consequences of Population Change", in Roger Revelle, chr., Rapid Population Growth, Vol. II, National Academy of Sciences Study Committee, (Baltimore: Johns Hopkins Press, 1971), p. 606.

³Joseph J. Spengler, "Some Economic Aspects of Immigration to the United States", Law and Contemporary Problems, Duke University Law School, Vol. XXI, No. 2 (Spring, 1965), p. 236.

The large increments of European migration to the U.S. in the periods 1844-54, 1863-73, 1881-88, and 1903-13 were largely stimulated by crises in European agriculture brought about by technological advances in American agriculture.¹ In those periods, and that of 1920-24, there was a clear, positive correlation between fluctuations in immigration on the one hand, and rates of change in real per capita income and capital investment on the other.² The illiteracy of more than a third of the immigrants in the first decade of this century reinforced the need for foolproof automatic machines and processes; this was a major reason for the development of mass production techniques in the U.S.

From 1864 to 1868 there was in the State Department a Commissioner of Immigration whose job it was to encourage immigration.³ Normally there has been no necessity for the government to stimulate immigration directly. As population

¹Brinley Thomas, International Migration and Economic Development. (Paris: UNESCO, 1961), p. 10.

²Brinley Thomas, "The Economic Aspect", in The Positive Contribution of Immigrants (Paris: UNESCO, 1955), p. 167.

³Charles Gordon, "Development of Immigration and Naturalization Laws and Service History", (Washington, U.S. GPO, 1972), p. 8.

pressures on available resources intensified in Europe, people crossed the Atlantic. When our agricultural land was settled, new immigrants filled menial jobs in industrial and service occupations. Many still do. The steamship companies did well by immigration, as the airlines do now. Entrepreneurs recruited abroad, for Chinese to mine gold and build railroads, for Mexicans to perform "stoop labor", and more recently, for West Indian live-in maids. The 1953 Report of the President's Commission on Immigration and Naturalization found that "immigration continues to be what it has always been in our history, a source of necessary manpower".¹

Experts have always differed about immigration's impact on national per capita income. Joseph J. Spengler opined about a decade ago that immigration in excess of 250,000 would "almost certainly operate to reduce the rate at which per capita income was increasing".² Others have stressed the "expanding pie" concept.³ Perceptive commentators hold that while immigrants will not receive more than

¹Handlin, op. cit., p.206.

²Anthony T. Bouscaren, "International Migration Since 1945" (New York: Frederick A. Praeger, 1963), p. 134.

³Ernest Rubin, "United States", in Brinley Thomas, ed., "Economics of International Migration", (London: Macmillan, 1958), p.144.

their marginal product and thus will not "lower either the total income derived from natively owned factor units or the per capita income of natives", some native labor market competitors may be disadvantaged by immigration in the short run.¹ Native minorities, the residue of potential rural-urban migrants, and secondary earners (married women, youths) may feel a pinch.

Especially since 1965, the proportion of explicitly "economic" immigration has declined as the proportion by virtue of family relationship has risen. In our current practice, medical care professionals are the only significant category of immigrants positively sought on the basis of needed skills.

C. The Rise and Decline of Nativism: More Socio-Economics, and Politics

The "Nativists" in the 1830s, the anti-foreign, anti-Irish Know-Nothings in the 1850s, the anti-Oriental movements in California in the 1870s and subsequently, the anti-Roman Catholic American Protective Association formed in 1887 and the Ku Klux Klan in the 1920s, the ethnic biases of our quota immigration from 1921 to 1965 - all had in common the perception of foreigners, or certain foreigners, as threats to the "American way of life". Such perceptions intensified in periods of economic depression or profound societal change.

¹Melvin W. Reder, "The Economic Consequences of Increased Immigration", The Review of Economics and Statistics (August, 1963), pp. 223-225.

Hostility directed against immigrants was the product of deep "personal and social tensions connected with more general processes of change in the whole society - rapid mobility, industrialization, urbanization".¹

Sometimes anti-alien sentiment has been explicable on the basis of unfair job competition, as by Chinese contract laborers in the West or by Central Europeans imported to break strikes in the Pennsylvania coal fields. Sometimes the sentiment was frankly racist. Mr. Sterne, U.S. Consul in Budapest, reported in 1886:

. . . These Slovacks are not a desirable acquisition for us to make, since they seem to have so many items in common with the Chinese. Like these, they are extremely frugal, the love of whiskey of the former being balanced by the opium habit of the latter. Their ambition lacks both in quality and quantity. Thus they will work similarly cheap as the Chinese, and will interfere with a civilized laborer earning a "white" laborer's wages.²

¹Oscar and Mary F. Handlin, "The United States", in The Positive Contribution, op. cit., p. 26.

²Lodge Report, to accompany S. 2147, February 18, 1896; U.S. Senate Calendar No. 334, 54th Congress, 1st Session.

Senator Henry Cabot Lodge wrote in 1891:

It is proved . . . that (immigration) is making its greatest relative increase from races most alien to the body of the American people and from the lowest and most illiterate of those races.¹

In California, the 1875/76 depression and labor agitation fueled anti-Chinese sentiment which was manipulated by the Workingmen's Party. Eugene E. Schmitz, a bassoon player, was elected Mayor of San Francisco on that party's ticket in 1901. Prolabor and antilabor forces vied for support on the basis of anti-Oriental sentiment. "Japanese a Menace to American Women; Brown Asiatics Steal Brains of Whites" - such were captions on San Francisco Chronicle articles in 1905. To divert attention from graft charges against Schmitz, in 1906 the city school board ordered all Oriental students to attend a segregated school in Chinatown. This caused considerable indignation in Japan, but the spillover effects on the American political scene were such that in 1907 President Roosevelt felt he had to order the cessation of Japanese immigration by way of Hawaii, Canada or Mexico, in return for the withdrawal of the San Fran-

¹North American Review, Vol.15, January, 1891; quoted in "Various Facts and Opinions Concerning the Necessity of Restricting Immigration", Tract No.3 of the Immigration Restriction League, Boston, 1894.

cisco school ordinance.¹

Repeated attempts by state legislatures to inhibit the influx of immigrants were held unconstitutional, as a regulation of commerce, so pressures mounted on the Congress.² In 1875 it prohibited entry of alien prostitutes and convicts; in 1882 it imposed a head tax of fifty cents and barred the admission of persons likely to become public charges. Also in 1882, the Chinese Exclusion Act was adopted, not to be repealed until 1943 when an annual quota of 105 was set. The first contract labor law was enacted in 1885.

In response to public sentiment for more selective immigration, in 1907 Congress commissioned a study which was published four years later in 42 volumes, the Dillingham Report. That mass of ethnic facts and fancies led to the Immigration Act of 1917, which added a literacy requirement, prohibited immigration from the "Asiatic Barred Zone" comprising most of Asia and the Pacific islands, and bestowed on the Secretary of Labor the power to admit applicants otherwise subject to automatic exclusion.³

¹Handlin, Immigration, op. cit., pp. 169-177. Early relationships between various nativist efforts and the Republican Party are treated by Seymour Martin Lipset, Revolution and Counter-Revolution (New York: Anchor, 1970), pp. 319-324, 366.

²Richard Plender, International Migration Law, (Leiden: A.W. Sijthoff, 1972), p. 47.

³Plender, op. cit., p. 55; and Gordon; op. cit., p. 2. Both sources are drawn upon in the review of subsequent legislation.

The first Quota Act, approved in 1921, provided for 350,000 quota immigrants annually, no more than three percent of the number of persons of the various nationalities resident in the U.S. in 1910, i.e., before large-scale immigration commenced from eastern and southern Europe. Congress approved the restriction, over a second veto by President Wilson, out of concern that massive numbers might immigrate from war-ravaged Europe. It was estimated that between 2 and 8 million people in Germany, and 3 million Polish Jews, wanted to go to the U.S.¹ The 1924 Quota Act limited quota immigration to 150,000 with national origin proportionality based on the 1920 census figures, renewed a wartime requirement that immigrants obtain visas, and tightened the exclusion of Orientals. The Japanese Government protested the latter aspect. Under the 1924 Act, persons born in the Western Hemisphere, and immediate relatives of U.S. citizens, could be admitted as nonquota immigrants.

In 1946 Congress extended naturalization eligibility, on which immigration visa eligibility depended, to persons of races indigenous to India and to all Filipinos. But it

¹U.S. Senate Committee on the Judiciary, The Immigration and Naturalization Systems of the United States, Report No. 1515 (Washington, U.S. GPO, 1950) p. 55.

was only with the controversial Walter-McCarran Act of 1952 that the use of race as bar to immigration was eliminated. However, the Act (passed over President Truman's veto) generally adhered to the national origin formula of the 1924 Quota Act. The overall quota limitation for the Eastern Hemisphere, 154,647, was apportioned on the basis of 1/6 of 1 percent of nationalities in the U.S. in 1920. Thus, about 80% of the quota went to countries in northern and western Europe. To the expressed satisfaction of Oriental Americans,¹ Congress liberalized the formula as it applied to the countries in the Asia-Pacific Triangle, containing about half the world's population. Japan was given a quota of 185, the others 100. Minor children and spouses of U.S. citizens, including Orientals, were defined as non-quota immigrants.

The 1952 Act reflected five years of Congressional consideration. The Senate Judiciary Committee's 925 page report includes many observations and statistics of uncertain relevance or accuracy, e.g., "The Irish foreign-born have a low rate of major criminal offenses, but a high rate of misdemeanors" (p.111); "Probably because of their small numbers, there are no statistics available on the crime rate

¹Marion T. Bennett, "The Immigration and Nationality (McCarran-Walter) Act of 1952, as Amended to 1965", in Edward P. Hutchinson, special ed., "The New Immigration", The Annals of the American Academy of Political and Social Science, Vol. 367, (September, 1966), p. 131.

of the Albanians in this country" (p. 83); "The group of foreign-born whose citizenship status was unknown or not reported made up 0.6% of the total United States population (in 1940), 23.0% of the foreign-born institutional population, and 12.6% of the population in homes for the aged, infirm, and needy" (p. 177); . . . "people from India . . . have, to a great degree, maintained their own distinct culture and ways of life." (p. 245); . . . about 50% of the religious denominations in the United States maintain churches or other religious organizations using foreign languages . . . Nationality parishes have certain distinguishing characteristics, such as . . . observation of certain peculiar rites and customs . . . " (p. 248).

The national origins philosophy of the Act was indicated by its primary authors in the following terms: McCarran: " . . . we have in the United States today hardcore, indigestible blocs which may not become integrated into the American way of life but which, on the contrary, are our deadly enemies". Walter: "Are we to have an immigration policy based primarily on the desires of Europe, Africa, and Asia or one based primarily on what is good for America?"¹

¹op. cit., p. 133.

The citation of Senator McCarran's remarks calls for brief comment on the question of ways in which immigrants are thought to fit best into our national society. Like many before him, McCarran in effect espoused what Keely has termed "Anglo-conformity"; rather complete "Americanized" assimilation. Early this century another concept, that of the "melting pot", came into vogue. The various inputs to our national mix were supposed to melt together, forming a thoroughly homogenized new culture. A play by Israel Zangwell, "The Melting Pot", was very successful in 1908, but in the American reality the melting pot did not happen.¹ What has happened is increasingly rapid progress toward the economic and political integration of immigrant groups, while they retain degrees of cultural individuality which contribute to a healthy pluralism. As Glazer and Moynihan observed, "The American nationality is still forming: its processes are mysterious, and the final form, if there is ever to be a final form, is as yet unknown".²

¹ Nathan Glazer and Daniel P. Moynihan, Beyond the Melting Pot (Cambridge, Mass.: M.I.T. Press and Harvard University Press, 1964), p. 290. Glazer and Moynihan note that Zangwell, as a Zionist, was involved in "one of the most significant deterrents to the melting pot process". His play dealt with Jewish separatism and Russian anti-Semitism.

² op. cit., p. 315.

The goal of fixing the ethnic composition of the American population as of 1920 was unachievable.¹ The national origins concept sullied the U.S. image in Asia. The 1952 Act contained such large loopholes that for the next thirteen years two out of every three immigrants would be classified as nonquota. Many of these came from eastern Europe and Latin America. New ethnic voting blocs from Mexico, Cuba and Puerto Rico combined with the ethnic coalition that had supported Franklin D. Roosevelt to agitate for fundamental immigration reform. In 1954 the American Immigration Conference was formed to work for more humanitarian and non-discriminatory immigration policy.² Changes in the composition of the pertinent Senate and House Subcommittees in January, 1965 facilitated efficacious consideration of reform measures.³

The Act of 1965 abolished the national origins system

¹Nathan Glazer, "A Nation of Nations and the New Ethnicity", in William S. Bernard, ed., Immigration and Ethnicity: Ten Years of Changing Thought, (New York, American Immigration and Citizenship Conference, 1972) p. 60.

²Ruth Z. Murphy, "Current Concerns of the Private Sector", in International Migration Review, op. cit., p. 52. In 1960 the AIC became the American Immigration and Citizenship Conference, comprising some 80 agencies.

³Edward M. Kennedy, "The Immigration Act of 1965", in Hutchinson, The Annals, op. cit., pp. 142-143. This is an interesting summary of the legislative history of the 1965 Act.

as of July 1, 1968, and repealed the Asia-Pacific Triangle provision immediately. During the transition period, unused quota visa numbers were pooled and made available to countries with backlogs on preference waiting lists. For the first time a limitation was put on immigration from the Western Hemisphere. The privilege of post-arrival adjustment to immigrant status was withdrawn from natives of the WH or adjacent islands. Individual labor certification was required of Eastern Hemisphere immigration applicants under the two occupational preference categories and the nonpreference category, and of all WH applicants except immediate relatives of U.S. citizens and permanent resident aliens.

Noteworthy with regard to "brain drain" is that whereas under the 1952 Act 50% of each national quota was allocated to persons "urgently needed in the United States because of high education, technical training, specialized experience or exceptional ability", the 1965 Act reserved only 20% for professionals, and needed skilled and unskilled workers. With the abolishment of national origins discrimination, however, immigration patterns shifted so as better to reflect occupational supply pressures.¹ Whereas under the 1952

¹Frederick Smith, Jr., Deputy Administrator, Bureau of Security and Consular Affairs, Department of State. Personal communication, March 26, 1974.

Act only a few score Indians, Nigerians or Koreans could immigrate annually under professional or occupational preference, now it is possible for nationals from any one Eastern Hemisphere country to take a very large proportion of the 34,000 Third and Sixth Preference numbers. Thus 43% of the some 27,000 immigrants admitted under occupation preferences in FY 73 were Filipinos, 10% were Koreans, and almost 10% were Indians.¹

The 1965 Act, in burying the blatantly discriminatory national origins concept, must be regarded as a significant plus for U.S. foreign policy. An important source of international good will is the large number of people abroad who "have a brother in Chicago". This applies to Egyptians and Pakistanis as much as to Irish and Italians. These days there are few who care openly to dispute the principle of non-discriminatory immigration based largely on family reunion and skills. Problems - both domestic and international - which have arisen in implementation of the Act, can be ameliorated in the spirit of its general framework.

¹Percentages derived from Table 7A, INS Annual Report.

D. Federal Government Administration of Immigration Law

American immigration management has its foundations in the law; the "whole environment in which immigration takes place in the U.S. is profoundly legalistic".¹ The modern immigration law practitioner is involved in administrative law, constitutional law, federal practice, and criminal laws of the U.S., of various states, and of foreign countries. Our 173 page statute on immigration and naturalization is the longest and most complex in the world.²

Responsibility for the administration of the first general immigration law of 1882 was vested in the Secretary of the Treasury, but he delegated enforcement to state boards or officers. After the State Department's short effort to encourage immigration, in 1891 the Congress provided for a Superintendent of Immigration in the Treasury Department.³ Immigration functions were transferred to the Secretary of Commerce and Labor in 1903, went with Labor when it was established as a separate department in 1931, and were transferred to the Department of Justice in

¹ Freda Hawkins, Canada and Immigration: Public Policy and Public Concern, (Montreal: McGill - Queen's University Press, 1972), p. 327.

² Jack Wasserman, Immigration Law and Practice, (Philadelphia: Joint Committee on Continuing Legal Education, Second Edition, 1973), p. vii. Wasserman's book is a useful compendium of current procedures, and contains an excellent bibliography.

³ Gordon, op. cit., p. 8.

1940. There the Immigration and Naturalization Service has resided since.

The Attorney General is charged with the administration and enforcement of the Immigration and Nationality Act and of all other laws relating to the immigration of aliens, except insofar as such laws relate to the powers and functions of the President, the Secretary of State, and officers of the Department of State. Determinations and rulings by the Attorney General are controlling.¹

Since 1917, aliens seeking to enter the U.S. as immigrants or non-immigrants have been required to obtain visas from consular officers. Visas are issued at 242 Foreign Service posts today. The consular officer has plenary power under the law for the issuance or refusal of visas. He or she may request advisory opinions from the Department of State on material points of the law.² In Fiscal Year 1973 more than three million visas were issued, some 305,000 to intending immigrants. The Visa Office of the Bureau of Security and Consular Affairs³ prepares visa regulations,

¹Gordon, op. cit., p. 9.

²The Department may request reports from consular posts with a view to determining whether visa actions taken or proposed in specific cases are reasonable and in accordance with applicable provisions of the law. 1973 Report of the Visa Office, op. cit., p. 1.

³Established in 1952, the Bureau's first head was Scott McLeod. A subsequent Administrator of the Bureau held that in its early years a "security mentality" prevailed. Responsibility for personal and physical security matters was transferred to the Deputy Undersecretary for Administration in 1962. Abba P. Schwartz, The Open Society, (New York: William Morrow, 1968), p. 31.

establishes standardized procedures, and allocates immigrant visa numbers in accord with demands and availabilities within the various numerical limitations.

The Department of Labor bears important immigration responsibility because of the law's labor certification requirements, and the Public Health Service has its obvious function. Other federal establishments come into play with regard to foreign students and trainees, notably the State Department's Bureau of Educational and Cultural Affairs, the Agency for International Development, and HEW's Office of Education. Recently the Social Security Administration has become involved in efforts to control illegal immigration and alien employment.

The key role of the Immigration and Naturalization Service (INS) merits stress. It adjudicates a wide variety of applications and petitions, for relative preferences immigrant visas and adjustments of visa status, for instance. INS officers inspect persons arriving at the almost 1,000 points of entry to the U.S. In FY 73 there were 148 million alien admissions, and almost 380,000 denials of entry.¹ Under our "double screening" procedures, immigration inspectors may find that bearers of valid visas fall within one of the 31 classes of excludable aliens. Attempts to enter the U.S. fraudulently are numerous. One of INS' most

¹1973 INS Annual Report, p. 3.

onerous responsibilities is that of locating deportable aliens, those who enter surreptitiously (almost all over the Mexican border), and those who violate the conditions of their admission (visitors who overstay, students who take employment without permission, etc.). 551,000 in the first category were located in FY 73, and 105,000 in the latter.

We may justifiably feel proud that the U.S. continues to be a strong magnet for would-be immigrants throughout most of the world. This drawing power imposes heavy burdens on consular officers in determining intent, and enormous burdens on the INS in administering alien controls.

Concluding this historical survey, the constitutional prerogative of the Congress in immigration matters must be emphasized. In recent years the House of Representatives, has evinced more concern about further immigration and alien control reform than has the Senate.¹ In the spring of 1974, other matters dominate the Washington scene and public interest. Meanwhile, regulatory changes in visa and INS procedures generally continue to be consonant with

¹The Senate Committee on the Judiciary is chaired by Mississippi's James O. Eastland. In FY 73, .000985% of the aliens who registered with the INS resided in Mississippi.

administrators' perceptions of Congressional wont, present or near future. The annual process of seeking executive funds demands that attention be paid to the public mood. Perhaps uniquely in the U.S., there is a "considerable degree of public participation in immigration processes and policy-making through the special relationship between the American bureaucracy and the community, and between Congress and the immigration lobby".¹

¹Hawkins, op. cit., p. 327.

IV. SOME PROBLEM AREAS

A. HUMAN RESOURCES DEVELOPMENT AND UTILIZATION

This section concerns optimization of two of the three major U.S. policy continua affected by immigration and visa laws and regulations: international education programs befitting a superpowered democracy, and appropriate intakes of foreigners with useful occupational skills. As previously remarked, the Congress and several federal departments are involved. State governments have important, if sometimes uncertain, roles in international education. Besides our richly variegated academic institutions of higher learning, significant participators include voluntary agencies, foundations, labor unions, professional associations, proprietary schools and other businesses, foreign governments, and international organization. Complex interactions constantly occur. In the normal flux and flow of administrative decision-making, shorter range domestic considerations tend to predominate over longer range foreign policy interests. The degree of that predominance appears to be increasing.

1. Foreign Students, Exchange Visitors, and Vocational Trainees

(a) Value Goals, Trends, Conditioning Factors, Projections

It is surely in the foreign policy interests of the U.S., and in the academic and cross-cultural interests of our degree-granting colleges and universities, that there continues to be

an appreciable foreign element in our student/scholar mix.¹ The foreign student population has risen significantly since World War II, though the rate of increase has slowed in recent years. While an absolute decline is possible, it appears improbable. The question of how many foreign students are "enough" is not examined here; the answer depends on the needs and service priorities of individual institutions, on the scope of our national commitment to Third World development, and on the pace of further multinationalization in business and other fields.²

The quantity factor aside, our international education programs should, to a greater extent than they do now, afford study opportunities for exceptionally promising foreign youths whose financial means are deficient in relation to U.S. educational costs. This is no "welfare" function; rather, it is a good bet on likely future leaders. Cost trends, fewer possibilities for off-campus employment, and diminution of research and teaching assistantships, are working counter to the enhancement of merit-oriented egalitarianism.

A desirable policy-operational objective is the rational

¹For a provocative treatment of new foundations for the human structure of peace, see "Transnational Communications-What's Happening?", speech by Assistant Secretary of State John Richardson, Jr. to Denver Institute of International Education, April 3, 1974, Department of State Bulletin, May 6, 1974.

²While about 1/3 of all students studying outside their home countries are in the U.S., in relation to our total post-secondary student population the proportion of foreign students is less than 2%. In the U.K. this proportion approximates 9%; in France, 7%. Hugh M. Jenkins, "NAFSA and the Student Abroad," Exchange (Spring, 1973), p. 2. A 1967 Colloquium at Wingspread, Wisconsin, sponsored by the Council on Graduate Schools, recommended a representative sample of 5 to 10% from abroad among graduate students as a desirable policy objective. University, Government and the Foreign Graduate Student, (New York: College Entrance Examination Board, 1969) p. 7.

restructuring of the rather slapdash manner in which some institutions come to be deemed "accredited" for the purpose of hosting foreign students and vocational trainees. A related question concerns proper visa classification. Educational and federal administrators are increasingly aware of the need for reform, but the proprietary school lobby is powerful.

Lastly and most importantly, it should be our goal to maximize the relevance of foreign students' experiences here to development needs in their home countries. This requires better selection procedures and counselling services, more bi-national coordination, modest adjustments of some curricula, and in general, a great deal more attention on the part of academic administrators to foreign student matters. Much useful work has been and is being done in these substantive program areas, but progress is spotty and countervailing pressures are strong.

How Many Foreign Students Are Here?

According to one source, our first foreign student was Francisco de Miranda of Venezuela and Columbia, who enrolled at Yale in 1784.¹ Prior to World War II, there were fewer than 10,000 foreign students in the U.S. at any one time; a census for 1923-24 gave a total of 6,988 counting students from Hawaii and Puerto Rico. About 40% of these were from three Asian countries: China, Japan and the Philippines.² From 1925 to 1945, the number of aliens annually admitted as

¹"Education for One World: Census of the Foreign Student Population of the United States 1948-1949," Institute of International Education, New York, 1949.

²Hugh M. Jenkins, "NAFSA and the Student Abroad," Exchange (Spring, 1973), pp. 1 and 2.

students exceeded 2,000 only in 1938, '39, and '40.¹ By 1948 there were some 27,000 foreign students, and during the 1960s the annual increases in their number averaged about 11%.

Accurate statistics suitable to the purposes pursued in this paper are not available. Open Doors reported 146,000 foreign students fully enrolled at U.S. colleges and universities offering recognized academic programs at the postsecondary level in 1972-73.² Probably there were about 7,000 more. India and Hong Kong each furnished more than 10,000; Canada and Taiwan more than 9,000 each. Other large sources included Iran, Cuba, Thailand, Japan, Nigeria, Korea, UK, Mexico, Pakistan, Philippines, and Israel. The IIE statistics, however, encompass holders of immigrant visas. Subtracting these, one arrives at a very rough estimate of 123,000. This includes both F visa students and J visa exchange visitor students, as defined by the IIE.

There were, of course, many more than 123,000 F and J principal visa holders (exclusive of dependents) in the U.S. during the 1972/73 school year. In FY 72 along, some 96,500 F "students" were admitted to the U.S. along with 23,000 J students.³ Presumably in the latter category were, inter alia, a few thousand European students who came under summer work/travel programs. (Also admitted in FY 72 were 3,500 H visa industrial trainees.) To the 119,500 F and J students who came to the U.S. in FY 72, one should add those previously admitted students who still resided here and maintained student

¹Senate Committee on Judiciary, Immigration and Naturalization System, op. cit., pp. 896, 897.

²Open Doors, Institute of International Education, New York, 1973, p. 1. This source is used for the 1972-73 academic year statistics that follow.

³INS Annual Report, 1972, Tables 16 and 16B. The State Department (CU) puts the number of J students at about 21,000.

status, and who had not left and re-entered the U.S. in FY 72. But the net residue of previously admitted F and J students is difficult even to approximate. Guesses run from 130,000 to 180,000 or more. INS' published statistics on annual January registration of aliens in temporary status do not differentiate between students and other visitors.¹

The large discrepancy between the number (approximately 123,000) of foreign students derived here from IIE statistics, and any estimate of our total foreign "student" population (250-300,000?) is largely due to the fact that the former does not include those enrolled in vocational, trade, private, commercial English-language or secondary schools, or in any similar schools which are not recognized as offering college or university level academic instruction. The same F visa category applies to students pursuing MBAs at Stanford and to young ladies practicing hairdressing techniques at beauty institutes in New York.

Student Employment Regulations

There are significant differences between F (student) and J (exchange visitor) visas with regard to legal employment opportunities. First, dependents of principal J visa holders may apply to the INS for permission to work off-campus on the basis of economic need. Dependents of principal F visa holders are forbidden to work. Second, J visa holders may under certain conditions be authorized to work off-campus by the host institutions' "responsible officers" of exchange visitor pro-

¹Statistics published on issuance of F and J visas also bear further disaggregation. The figures given (about 66,000 F and 54,000 J in FY 72; about 70,000 F and 52,000 J in FY 73) include dependents and non-student exchange visitors. Report of the Visa Office, Table XIX.

grams approved by the Department of State. F students may be authorized by the host institutions' foreign student advisors to work on campus, provided U.S. citizens are not displaced. For off-campus employment, F students must apply to the INS, which authorizes such employment only if "unforeseen changes in circumstances" after the students' arrivals in the U.S. can be proven to have adversely affected their financial positions.

During the last two years there have been several actual or proposed federal regulatory changes which impinged upon the capability of non-wealthy foreign students to study in the U.S. These moves are viewed by the community of foreign student advisors as adding up to a serious erosion of the workable if untidy system which previously obtained; as an unjustified leap in the direction of economic elitism.¹ The moves are seen by the officials who devised them as merely stricter interpretations and applications of the law, necessitated by widespread abuses and a deteriorating labor market. There is merit in elements of both points of view. The question is whether the right medication is being applied to an ailing foreign student "policy."

Two of the regulatory changes will be examined here: a July, 1973 State Department instruction regarding foreign students' financial resources, and an April, 1974 decision by INS Commissioner Chapman regarding summer employment.

Problems about foreign student employment have been with

¹I am grateful for the assistance of foreign student affairs experts at the following colleges and universities, in addition to those cited in the Preface: Colleges--Boston, Dartmouth, Fresno State, Morgan State; Universities--Boston, Brandeis, California (Berkeley), California State (San Francisco), Colorado, Georgetown, George Washington, Howard, Maryland, Massachusetts (Amherst), Northeastern, Ohio State, and Stanford.

us a long time. In the case of "United States ex. rel. Antonini v. Curran, 15 Fed. (2nd) 266" it was decided that a Department of Labor regulation promulgated under the 1924 Act, providing for deportation of foreign students who labored for hire, did not apply to students "otherwise bona fide who during their studies gain their maintenance and tuition by self-supporting labor."¹

The current law provides that an F-1 visa may be granted to:

an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by the Attorney General after consultation with the Office of Education of the United States...²

The legislative history of the 1961 Mutual Education and Cultural Exchange Act indicates that the Congress did not desire that F visa students be permitted to work. The Senate approved a provision authorizing employment for all F and J aliens (including dependents), but this was deleted from the bill in conference. The Conference Committee report explicitly approved employment for exchange visitors, but made no reference to F students.³

¹Jane Perry Clark, Deportation of Aliens from the United States to Europe, (New York: Columbia University Press, 1931), p. 270.

²Emphasis added.

³Frederick Smith, Jr., Deputy Administrator, Bureau of Security and Consular Affairs, personal communication, March 26, 1974.

During the next decade, economic conditions were healthy enough to permit the granting of F visas to students who showed sufficient resources for the first year of study and reasonable promise of subsequent support. It was presumed that they could make out, through combinations of personal funds, scholarship assistance, on-campus work, etc. Then, in the contexts of (a) the growing problems posed by millions of Mexican and other illegal aliens who had entered the U.S. by one means or another, and (b) the cost/resource squeeze, critical attention was directed to foreign student employment.¹ The question arose several times during extended hearings in 1971 and 1972 before the House Subcommittee then chaired by Peter W. Rodino, Jr.² Associate Commissioner James F. Greene testified in March, 1972 that the INS was working with the State Department to tighten up on procedures involving foreign students who arrived without sufficient funds and then sought permission to work.³ F students found it more difficult to obtain permission from INS to work off-campus.⁴ That illegal employment on the part of foreign students and vocational trainees had become common, was acknowledged by foreign student advisors

¹While foreign students contributed rather modestly to the huge illegal alien employment problem, their infractions were usually more visible than most.

²Illegal Aliens, Hearings before Subcommittee No. 1 of the Committee on the Judiciary, House of Representatives, 92nd Congress, Part 3, p. 968; Part 4, pp. 1186-1196.

³Ibid., Part 5, p. 1346. See also pp. 1447,8, 1509,10,

⁴For instance, in the San Francisco District the denial rate rose from 26% in FY 72 to 31% in FY 73. Immigration and Naturalization Service Regional Office Operations, Hearings before the Legal and Monetary Affairs Subcommittee of the Committee on Government Operations, House of Representatives, 93rd Congress, Part 3, p. 281. Foreign student advisors often approved employment if "money was needed," but the INS approved off-campus work only if unforeseen circumstances had arisen.

and immigration lawyers. For one thing, undermanned INS offices could not cope expeditiously with the growing demand for permission to work.¹ In Washington word got around that an investigation of the foreign student situation was being mounted by the General Accounting Office.²

Thus it should not have come as a great surprise when the State Department decided that "an alien applying for a student visa must establish by appropriate evidence that sufficient funds are, or will be, available to him to defray all expenses during the entire period of his anticipated study in the United States."³ Previously, the Department had queried consular and cultural affairs officers about this and related proposed changes. Few of the cultural officers replied; some of those who did took issue with the "all expenses" notion.

Balanced analysis of the effects of the new F visa regulation will not be possible for some months yet; students commencing U.S. study in the 1973/74 academic year generally were not affected. Early samplings at 20 universities and colleges regarding applications for 1974/75 produced mixed results, though dire predictions prevailed. The State Department stresses that an applicant need not prove the immediate availability of "cash in advance" to cover several years of intended study, but must, however, produce specific documentary evidence covering all first year expenses,

¹The writer is grateful to Robert S. Bixby, Joseph S. Hertogs and Donald L. Ungar of San Francisco, and Jack Wasserman of Washington, D.C. for personal interviews which provided edification on legal and other aspects of matters treated in this paper.

²The GAO report may be completed in late spring or early summer, 1974.

³Foreign Affairs Manual, Vol. 9 - Visas, July 25, 1973. Emphasis added.

and satisfy the consular officer that adequate funds will be available in succeeding years from financially reliable sources, without summer employment.¹

Every spring the INS Commissioner considers whether or not to authorize foreign student advisors to grant permission for summer employment to F students on the basis of economic need. He seeks advice from the Labor and State Departments. In recent years / the former considered that such employment would take positions away from U.S. residents and advised against; the latter considered our foreign policy interests and advised for. The last few years, the decisions came down in favor of the foreign students. On April 19, 1974 Commissioner Chapman announced that foreign students must obtain permission to work this summer from the INS rather than from school officials. He cited a need to protect job opportunities for young Americans including minority youths and Vietnam veterans. The Commissioner stressed, in his press release and when interviewed the previous day by this observer, that foreign students in need of employment for economic reasons due to unforeseen circumstances arising after entry to the U.S. might apply to INS for work permission at any time.²

¹It is noteworthy that Canada has required "cash in advance." A Cameroonian student, for instance, who in 1971 planned on a four-year course, was required to deposit \$16,000 in a Canadian bank. The Brain Drain from Five Developing Countries, (UN Institute for Training and Research, New York, 1971), p. 28. The Five countries studied were Cameroon, Columbia, Lebanon, The Philippines, Trinidad and Tobago.

²The New York Times presented on May 6, 1974 a garbled account of the Commissioner's decision. Written by Pranay Gupte, the story claimed foreign students could not accept summer jobs (p. 21). The NYT is not noted for accuracy in reporting on INS matters. See INS Regional Office Operations, op. cit., Part 1, p. 55, and Acting Commissioner Greene's July 26, 1973 testimony before the Eilberg Subcommittee.

The visa change and summer employment decisions have occasioned considerable outcry from those concerned with the welfare of bona fide foreign students. They point out that most undergraduate scholarships and all grants for postgraduate studies are made on a year-to-year basis and cannot be committed in advance for multi-year programs¹; that even "full scholarship" students are funded only for the 9-month academic year. They deem it unfair to lessen legal summer work opportunities for those students who entered the U.S. under the previous "liberal" financial groundrules and who counted heavily on summer work. They maintain it is not in our national interest to cater only to students representing foreign economic elites,² and charge that programs for non-sponsored African students at predominantly black colleges, for instance, will be cut to ribbons. Other critics note that even if twice as many foreign students were to work the summer of 1974 as did the summer of 1973, they would constitute only .00075% of the total work force.³ It is questioned whether Vietnam veterans compete for the kinds of menial jobs foreign students are willing to

¹Not very many married American Ph.D. candidates could certify availability, in advance, of \$40,000 for a 5-year Harvard program.

²See Karen J. Winkler, "Closing the Books on Foreign Students?", Exchange, Fall 1973-Winter 1974, pp. 17-19.

³Eugene Smith, "Postcard Survey of Summer Employment," NAFSA Newsletter, April, 1974, p. 1. A "Study of Youth Employment 1970" by the Council on International Education Exchange raised questions about the "subjective quality" of data used by the Bureau of Labor Statistics.

take.¹ Graduate business school administrators are concerned that summer employment arrangements with U.S.-based multinational corporations, for "testing" foreign students for possible subsequent employment in their home areas, may be endangered.

More generally, the critics feel that in their justified concern about the huge and frustrating illegal alien problem, federal administrators have moved too harshly against bona fide, degree-pursuing foreign students who pose relatively very minor problems. They doubt that the new restrictions reflect the considered intent of the Congress, and advocate a let-up until Congressional attention can be devoted to the foreign policy issues involved.²

Given the current controversy about F student summer employment, a comment on the J exchange visitor summer work/travel programs is indicated. In past years the number of participants, 6 to 10,000, may have approximated from 1/3 to 1/2 of the number of resident foreign students who obtained permission for summer employment. Participants, mostly Western Europeans, were advised not to seek jobs in high unemployment

¹An April 19 interview at the AFL/CIO national office confirmed that organization's view that foreign students had not posed a significant threat to veterans' employment or to organized labor. It appears that American students do not favor restrictions on off-campus work by their foreign peers. An opinion survey showed 65% opposing special restrictions on foreign students working as long as they continued full-time studies, and another 30% in favor of allowing needy foreign students to work to pay all their educational expenses on their tuition. William Barnhart, "University Opinion Poll 8B, Fall 1973," Office for Student Affairs Research Bulletin, University of Minnesota, Vol. 14, No. 5, December 3, 1973.

²Meanwhile, preliminary reports indicate that the INS District Offices are taking a reasonably "liberal" stance on applications for summer employment permission. If applications can be dealt with expeditiously despite INS' manpower shortages, the change may prove not nearly as harmful as its critics predicted.

areas. Unless "pre-placed," they were asked to defer arrival in the U.S. until after June 15, so as not to compete for jobs with American youths. International reciprocity is an important consideration. Every summer more than 20,000 U.S. college students work abroad, mostly in Israel and Western Europe.¹ One organization alone sends about 10,000 U.S. high school and college students to Europe on work/study programs, while placing 1,500 European students as counselors in American summer camps.² Moreover, in past summers at least, most J visa work/travel participants secured unskilled employment that (even) resident foreign students did not take.³ In light of summer employment problems faced by the latter, however, one small camp counselor program for exchange visitors from West Africa, Japan and elsewhere was cut back by its sponsor and redirected to resident foreign students.⁴

(b) Apathy in Academia

Our educational institutions, and those who fund or otherwise assist them, share much of the responsibility for the present unsatisfactory foreign student situation. Even through the traumas of the late 1960s and early 70s it should have

¹Council on International Educational Exchange, "The Employment of U.S. Students Abroad," New York, September 1972, paper, p. 4.

²Henry C. Kahn, Director of Information, American Institute for Foreign Study, Greenwich, Connecticut. Personal communication, February 26, 1974.

³Joe Hickey, Coordinator, Employment Services, Council on International Education, New York. Personal communication, January 14, 1974.

⁴Delmar Wedel, Executive Director, International Student Service, YMCA, New York. Personal communication, March 12, 1974.

been possible for academic leaders to maintain or even strengthen their international education programs. Instead, purposefulness flagged. Little was done to marshal public concern and stimulate constructive political action. "Instead of joining together in making a forceful approach ... we have opted for autonomy in institutional programs, a free market for admission of foreign students, and the comforting assumption that since our cause is a just one, that it will prevail".¹

Foreign student affairs were virtually neglected at many schools. Services, insofar as they existed at all, were scattered about university campuses in an ad hoc manner. Traditional sources of partial support dried up for large numbers of foreign students. In the California State College system, foreign students were lumped together with other out-of-state residents who had to pay sharply increased tuition; 39 foreign student advisor positions were eliminated in the summer of 1971 alone.² In the State University of the New York system, aid for alien students declined by 47%.³

Effective liaison between the schools and INS offices was the exception rather than the rule. Some foreign student advisors viewed illegal employment as justified in the circumstances prevailing. There were instances of permission being granted for 1974 summer employment before the INS decision was announced. At some institutions no one knew exactly how many foreign students were present, or roughly how many might be working legally or illegally. It followed that from a national perspective, production of pertinent data entailed much

¹Forrest G. Moore, "Whither Foreign Students?", University of Minnesota, Minneapolis. (Mimeographed paper, August 28, 1973).

²Winkler, Closing the Books, op. cit., p. 17.

³Ibid., p. 18.

guesswork. Almost half of the IIE's census returns were in forms which rarely provided answers to questions about sources of support and lengths of stay.¹ A final report on two potentially useful Rockefeller Foundation-funded survey projects is not expected before autumn, 1974.²

Parenthetically, this observer suggests that higher education institutions in the Washington, D.C. area should be foremost among those which meticulously exercise their responsibilities vis-a-vis foreign students and federal regulations. With almost 8,000 foreign students (5.3% of the national total) in recognized academic programs, Washington and Maryland constitute a high impact area, quantitatively, psychologically and therefore politically. It is there that Congressmen and federal officials see for themselves a rather high incidence of foreign student employment; some legal, some illegal. One remarks it especially among taxi drivers, food market clerks, waiters, and parking attendants.³ Abuses of F visa status in Washington have ripple effects of appreciable dimensions.

Another factor of growing relevance is the financial need of some U.S. colleges and universities for more foreign students. In considerations of unemployment trends, faculty members and school administrators should not be left out of the picture. The postwar baby boom generation is completing its

¹Open Doors, op. cit., p. 2.

²Forrest G. Moore, "Visa Study Underway," NAFSA Newsletter, March, 1974, p. 6. For optimum utility, the projects required more financial support than was obtained.

³The Airport Parking Corporation of America estimated that 20% of its attendants in the Washington, DC area were foreign students. See David S. North, Alien Workers: A Study of the Labor Certification Program, (Washington: TransCentury Corporation, 1971), p. 193. North calculated that a majority of the foreign students in Washington had been missed by the IIE census.

college years. Empty seats are appearing in classrooms. In May 1973 there were 130,000 vacancies in 206 western colleges and universities.¹ About two dozen colleges have been closed; at Southern Illinois University, Carbondale, more than 100 faculty members were dismissed.² Forty-five faculty positions and thrice as many teaching assistantships are being abolished at the University of Maryland. Some colleges are actively recruiting foreign students overseas.³ More than a third of our foreign students (as defined by the writer) have been entirely self-supporting. This proportion may or may not remain static. The point sought to be made here is simply that faculty unemployment may become sufficiently significant to cause the Congress and state legislatures to view favorably large inflows of foreign students, financed by combinations of sources including public funds and off-campus employment.

(c) Approval of Schools for Attendance by Nonimmigrant Students

To obtain an F visa an applicant must produce an I-20 Form confirming eligibility to attend "an established institution of learning or other recognized place of study," approved by the Attorney General. Regional INS offices rule on petitions of schools seeking the right to issue I-20s. Initial inquiries and recommendations are made at the INS district

¹Leo J. Sweeney, "Restrictions and Rumors," NAFSA Newsletter, December, 1973, p. 1. Fred M. Hechinger thinks vacancies may reach ½ million. New York Times, December 18, 1973, p. 41.

²New York Times (Evan Jenkins), "Colleges Shift to Hard Sell in Recruiting of Students," March 31, 1974.

³Jay Douglas Conner, Executive Secretary, American Association of College Registrars and Admissions Officers, personal communication, April 29, 1974.

level. INS regulations require consultation with the Commissioner of Education to determine inter alia whether the practitioner "is operating a bona fide school, and has the necessary facilities, personnel, and finances to conduct instruction in recognized courses." Automatic approval is given to schools accredited by one of the six regional accrediting commissions (e.g., Southern Association of Colleges and Schools), or by one of about forty national specialized accreditation associations and agencies.¹ Examples of the latter are the Accrediting Association of Bible Colleges, the American Bar Association, the American Board of Funeral Service Education, the Cosmetology Accrediting Commission, the National Association of Trade and Technical Schools, and the Council on Medical Education, American Medical Association.² Regarding petitions referred to the Office of Education concerning nonaccredited schools, denial or deferral is recommended in 95% of the cases because of insufficient information. Few of these are returned with additional data for further consideration.³

Most "public educational institution(s) operated by a state of the United States" also are automatically approved for I-20 issuance. Practice may differ among INS jurisdictions. Thus, F students attend adult education schools in California

¹John R. Proffitt, Director, Accreditation and Institutional Eligibility Staff, Bureau of Secondary Education, Office of Education, HEW; personal communication, April 8, 1974.

²In its 191-page listing of Accredited Postsecondary Institutions and Programs 1972, the Office of Education observed that the specialized accrediting agencies "demonstrate marked variation among their criteria for accreditation, definitions of eligibility, and operating procedures" (p. x).

³Proffitt, Op. cit.

at nominal cost. In the Boston area, adult schools are not approved; few provide as many as 20 hours of instruction per week, and they are not deemed to offer a "full course of study." Proprietary schools licensed by state agencies are generally approved by the INS. Approved schools must report to the INS the termination of attendance of each nonimmigrant student, and if the school "fails to make reports promptly the approval shall be withdrawn."¹ In practice, INS finds it difficult and expensive (in terms of manhours and court costs) to withdraw approval.

Visa officers, then, are faced with I-20 Forms from a vast multiplicity of diverse schools--from Reed College, Portland, Oregon to Pierre's School of Beauty Culture in Portland, Maine. Some schools issue I-20s freely to prospective students whose English is minimal and whose proposed subjects of study are quite unrelated to foreseeable labor market realities in their home countries. Other approved schools in effect provide illegal employment opportunities under the cover of "practical training." Still others "sell" I-20s, and are little more than immigration conduits.²

Nor is the I-20 system always fair to the bona fide student or vocational trainee who intends to return home after study in the U.S. INS approval of a state-licensed private vocational school, for instance, does not guarantee that the

¹Immigration and Naturalization Act, op. cit., Sec. 101 (F) (1).

²The Sierra Leone Ministry of Education was concerned in late 1973 about an "unusually strong interest on the part of students in marginal nonaccredited proprietary institutions" in the U.S., and a growing use of fraudulent I-20 forms in attempts to obtain student visas. Sanford C. Jameson, "Report on Sixth Project, Overseas Workshops and Consultations," (Washington, National Liaison Committee on Foreign Student Admissions, 1973), p. 25.

foreign trainee will receive the quality or quantity of instruction advertised.¹ A survey several years ago revealed that 1/5 of all foreign students apparently chose their schools, and received I-20s, on the basis of no information whatsoever about American educational institutions.² Many were bound to be disappointed. At the other extreme are perfectly reputable schools which issue I-20s only after alien applicants are personally interviewed and programmed by counselors at the schools.³ Such cases may involve F visa holders who for reasons of academic or financial deficiency cannot continue at the schools which issued their original I-20s. They more likely involve B visa holders (temporary visitors for business or pleasure) who come with the intention of adjusting to student status, finding a job, and eventually acquiring permanent resident alien status. Even more serious are cases of immigration-minded F visa holders who never show up at the institution which sent them I-20s, or who attend classes briefly and then disappear. In 1973 the New York INS Office had more than 20,000 reports of persons who had abused the student visa entry privilege.⁴

¹ A series of exposures by The Boston Globe prompted the U.S. Office of Education to consider reforms in federal funding of the \$2.5 billion private vocational school industry. See April 18, 1974 issue, pp. 1, 14.

² Foreign Students in the United States, U.S. Advisory Commission on International Educational and Cultural Affairs, (Washington, 1966) pp. 7, A-13.

³ Arthur M. Cutler, Counselor, Sequoia Adult School, Redwood City, California. Personal communication, February 27, 1974.

⁴ INS Regional Office Operations, op. cit., Part 4, p. 441.

For years, Congressional, academic and federal official experts concerned about the foreign student situation have advocated that the law be amended so as to restrict F-1 visa classification to aliens accepted for enrollment by academically-accredited, degree-granting institutions, determined by the U.S. Office of Education to be "bona fide and established." Aliens enrolling in what might be generally characterized as "vocational" schools would be classified as B visa visitors and thus entirely precluded from accepting gainful employment.¹ Rough estimations put the proportions of "vocational trainees" and academic students among current F visa holders at 50-50. INS officials and immigration lawyers confirm that vocational trainees, as distinct from college and university students, contribute most by far of F-1 violations of status including illegal employment,² and that the former are more likely to enter the U.S. with intention to remain permanently.

(d) Exchange Visitors: Hopeful Trends

Treatment here of exchange visitor programs is summary, and focused mainly on U.S. Government-supported foreign participation. For one thing, the J visa student and scholar programs generally are well devised and managed; this observer finds little to fault. (Medical training and "brain drain" aspects are discussed in the next section.) Attention is

¹A bill sponsored by Congressman Rodino in 1972 included a provision along these lines. It is not contained in House-approved immigration reform bills currently pending in the Senate. Some suggest that F visas should be used also for students enrolled in reputable English-language training institutions, provided subsequent study at approved institutions is assured.

²Every month INS finds some 600 F students who are subject to deportation.

directed to specific student programs worthy of emulation, to trends which bear strengthening, and to a few questions deemed by the writer to merit consideration. Portions of the commentary relate as well to programs and procedures involving F visa students.

Of the 1,737 designated Exchange Visitor Programs, only 69 are sponsored by the U.S. Government. The remaining 1,668 are sponsored by universities and colleges, hospitals, nonprofit association and foundations, and business and industrial concerns. Orchestrating much of this large endeavor is the State Department's Bureau of Educational and Cultural Affairs (CU), particularly its Facilitative Services Staff. The U.S. Information Agency, under a reimbursement arrangement with State, provides a Cultural Affairs Officer in most embassies. He or she is responsible for the supervision and much of the operation of the ^{State Department} exchange program in each country. The National Science Foundation and AID have major international exchange programs. All told, about 40 federal organizations are involved in educational exchange, and there is some justification for the view that each "marches to the sound of a different drummer."¹ But particularly during John Richardson, Jr.'s incumbency as the CU Assistant Secretary of State, program concepts have sharpened and constructive innovations have been introduced. In official programs the stimulation of institutional development and inter-institutional linkages is stressed, with concentration on individuals of exceptional talent, promise or influence in fields of importance to our long-term

¹Paul Ritterband, "Law, Policy and Behavior: Educational Exchange Policy and Student Migration," American Journal of Sociology, Vol. 76, No. 1, July 1970.

foreign relations.¹ The Agency for International Development is moving toward problem-oriented emphases in its Participant Training Program. Various private organizations are contributing improved techniques.

The high point of USG grants to foreign participants in academic exchange programs was 1965, when the number exceeded 4,000. By 1971, budget cuts had almost halved that figure.² While Fulbright grants went to 42,333 foreign students in the 1949-1972 period, only 1,210 or 2.9% of these were awarded to new grantees for the 1971-72 academic year. (588 of the 1,210 grants went to West Europeans; 61 to Africans.)³

Among CU's major program dimensions are the support of services to foreign students who come without USG grants, and the encouragement of quality international exchange programs of other organizations both public and private. To these ends CU's FY 75 budget request includes \$1.7 million, an increase of $\frac{1}{2}$ million, for improvement of selection, placement and overseas counseling of nongrant foreign students, and strengthening U.S. orientation, campus and community programs for them. CU aims to establish solid professional counseling programs in the 70 to 80 countries which send the largest numbers of students to the U.S.⁴ In recent years good progress has been made in overseas counseling, through regional

¹CU's Annual Report for 1972, "A Human Contribution to the Structure of Peace," U.S. GPO, 1974, and "The CU Program Concept," March 12, 1974.

²Board of Foreign Scholarships, "A Quarter Century: The American Adventure in Academic Exchange," Washington, 1971, pp. 28, 34.

³Board of Foreign Scholarships, "Report on Exchanges," Tenth Annual Report, Washington, 1972, p. 19.

⁴William K. Hitchcock, Deputy Assistant Secretary of State, Personal communication, May 2, 1974.

workshops and other consultations conducted by the National Liaison Committee on Foreign Student Admissions.¹

Private nonprofit organizations and individual volunteers are key actors in all our exchange programs. In its facilitative, catalytic, and coordinative role in foreign student affairs, CU assisted in 1970, for instance, such agencies as the African-American Institute, American Friends of the Middle East, The National Association for Foreign Student Affairs, and the Institute of International Education.² The latter is probably the most important such organization. In FY 73 it administered 443 programs for 62 sponsors including the Ford Foundation, Department of State, AID, UNESCO, consortia of funding organizations, foreign governments, multinational corporations, and universities in the U.S. and abroad.³ Many of these programs aimed at institution-building in less-developed countries; support was provided to the AID-sponsored East African Agricultural and Forestry Research Organization, and to Harvard Development Advisory Service projects designed to strengthen economic planning.⁴

With funds from other sponsors, concepts developed within the IIE are implemented in such projects as the Program for Educational and Technical Exchange for the Central Americas,

¹See Sanford C. Jameson, "Counseling Counselors Abroad on U.S. Higher Education," and Lyle M. Nelson, "The Mexico City Workshop," Exchange, Fall 1972.

²CU's Annual Report for 1970, "International Exchange: Leaders for Tomorrow."

³IIE, "IIE Today," New York, undated paper, p. 2.

⁴Regarding the Harvard DAS' work with "change-agents," see William J. Allaway, ed., International Educational Exchange in the United States: A National Profile, 1971.

which combines resources of Central American national educational credit agencies and U.S. junior colleges for training of middle-level technical personnel.¹ The IIE~~Z~~ also cooperates in Operacion 50%, which provides matching loans enabling less-advantaged Latin American students to study in the U.S. Fourteen million dollars of sponsors' funds for scholarships, fellowships and grants are distributed by the IIE annually.²

AID welcomed its 160,000th participant for specialized training in FY 70. Less than 1% failed to return home after completing their studies in the U.S. Of the more than 13,000 participants in training in FY 71, 34% came from Latin America, 26% from East Asia, 22% from the Near East and South Asia, and 16% from Africa.³ Major stress was in the fields of education, agriculture, health and family planning, and public administration. Fourteen percent of the participants were at the sub-professional level: craftsmen, nurses, surveyors, etc. The more than 1,700 participating agencies included the Departments of Agriculture, HEW, and Labor, 31 universities, and scores of private companies.⁴ AID and CU support the National Council for Community Services for International Visitors, and AID and NAFSA's Community Section collaborate on programs for foreign students.

¹"IIE Today," op. cit., p. 7.

²IIE, "This is IIE," New York, undated pamphlet, p. 5.

³Office of International Training, AID, "Training for Development in Partnership with the Private Sector," Washington, undated pamphlet, p. 2. Percentages approximated.

⁴Ibid., pp. 24, 25, 33, 34.

In his address before the General Assembly of the Organization of American States at Atlanta, Secretary Kissinger commended OAS programs aimed at strengthening university and basic research and training activities in Latin America.¹ A fine endeavor in this field is that conducted by LASPAU, The Latin American Scholarship Program at American Universities. In the interest of university development, the program provides full scholarships to young Latin American faculty and staff members chosen by their universities and carefully screened in personal interviews.² The LA sponsoring institution arranges from its own funds or from a local educational credit agency to cover the costs of round trip air travel and English language training. The U.S. host university provides full waiver of tuition and fees. LASPAU, with AID support, provides a living allowance. Thus, qualified candidates who are financially needy are not penalized. Maintenance runs throughout the year, obviating need for summer employment and shortening the "turnaround" period.

LASPAU considers nominees in relation to specific, high priority faculty needs as indicated in development plans submitted by the LA institutions. Candidates must agree to return to the sponsoring institutions, and the latter to provide suitable full-time positions. Experience since 1965 has led LASPAU more to concentrate wholly on Master's level study. As of

¹Department of State News Release, April 20, 1974.

²For information about LASPAU the writer is grateful to its Director, William J. Brisk, for an advance copy of "Report on LASPAU's Operation in 1972 and 1973," and for two interviews at Cambridge. The Rockefeller Foundation also has a successful Latin America university development program. See Robert L. Fischelis, in "The Foreign Graduate Student: Priorities for Research and Action," (New York, College Entrance Examination Board, 1971) pp. 34-36.

April 1974, of the some 200 nominees for whom admission decisions had been made up by U.S. universities, more than 150 had been accepted with waiver of tuition and fees. About half of the unsuccessful referrals were attributable to financial difficulties of the proposed host universities, and another 20% due to the recent de-emphasis of Master's degree programs in some departments.

Under AID's "new directions" policy, problems of human resources development are being approached in imaginative ways. The orientation is to fundamentals such as the relevance of educational systems, non-formal education possibilities, and support for centers of developmental excellence abroad. Under a contract with the American Association of College Teachers of Education, college administrators from LDCs "sit at the right hand" of their U.S. counterparts for six months to see, inter alia, how we devise curricula relevant to our needs. In an AID/NAFSA project at the University of Michigan, work proceeds on a "life-line" model of the entire process of selection, training and follow-up of sponsored foreign students. With the American Association of College Registrars and Admissions Officers, AID seeks means to ensure that its participants, most of whom now are postgraduates, are placed at the proper level and receive the mix of instruction best suited to home country needs. The results of this project can be helpful with regard to foreign study in the U.S. generally.

Alternatives and Recommendations

The "easiest" and perhaps most likely course would be to allow existing programs and practices to drift along. This is deemed a reasonable option by some. After all, more F visas were issued in the first half of FY 74 than in the same period

of FY 73.¹ We have always catered to the wealthy foreign student. Besides, no one really knows the exact dimensions of the foreign student economic plight; hard national data are lacking. The mood of the country and therefore of the Congress is such that felt domestic pressures should indeed prevail over "do-goodism" in international education. They usually have. It is not now realistic to think in terms of increased federal or state appropriations to help optimize "the human contribution to the structure of peace." The I-20 situation may be a mess, but is this the time to take on the vocational school lobby? As for the universities, their lack of specific purpose regarding education of foreigners is a necessary condition of their treasured autonomy. Etcetera.

A second broad alternative, which doubtless has some supporters, would be to "tighten up" even further on bona fide foreign students. Let their own countries worry about them; we have enough problems ourselves. Why should any private scholarships or public funds go to the training of foreigners while some of our minorities remain disadvantaged? So, require that prospective foreign students produce "cash in advance" evidence of support for the entire courses of projected study. Turn away those who seek to enter publicly-subsidized schools if something like the training sought is available in their home countries. As for the students already here, require INS approval for on-campus employment. Ban summer work entirely. Require labor certification for J visa dependents who wish to work. Drastically restrict the use of J visas. Perhaps there are others.

¹James E. Kiley, Chief, Public Services Division, Visa Office. Personal communication, April 30, 1974. Forrest G. Moore called my attention to the probability that we can expect more students funded by foreign governments, particularly in the Middle East.

It may have been surmised that this observer's set of reasonable options will differ from the above broad alternatives. Recommendations and suggestions follow.

Broad policy consensus is required on the purposes of our international education endeavors. The Congress, the Administration, and academia should in concert with pertinent private organizations establish well-defined objectives to which individual institutions and public officials could relate their actions. Leadership for this urgent, complex task requires calibre such men as Secretary Kissinger and Robert F. Goheen could provide. Recommended reading for those involved would include the seminal "Reconstituting the Human Community,"¹ and accounts of provocative colloquia sponsored by The National Liaison Committee on Foreign Student Admissions at the Johnson Foundation's Wingspread in Racine.² The necessary review in 1975 of the Higher Education Act of 1965 will entail aspects of international education policy. Much may usefully be done before then.

The Congress can pass legislation, with appropriate safeguards, making it a punishable offense for employers to hire illegal aliens. The INS budget should be increased more sharply than now projected, to enable it better to cope with the devastating illegal alien problem (and incidentally, with foreign student requests for work permission). Visa differentiation should be made between students at academically accredited, degree-granting schools and other 'trainees, with

¹Report of Colloquium at Bellagio, Italy, July, 1972. The Hazen Foundation, 400 Prospect Street, New Haven.

²The Foreign Graduate Student: Priorities for Research and Action (New York: College Entrance Examination Board, 1971). A Colloquium on "The Undergraduate Foreign Student: Institutional Priorities for Action" is scheduled for June 20/21, 1974.

employment privilege denied the latter.¹ An early and reasonably representative indication of Congressional feeling about foreign student employment would be useful to the Executive Branch, which seems to have received few and mixed signals on this subject from the Hill recently. The Visa office and INS would temper or maintain their present stringent practices accordingly. (The Congress might wish, in the context of the proposed visa reform which would greatly reduce the number of F visa holders, to view with favor on-campus employment by dependents of needy students.)

The Administration should move expeditiously to raise the criteria used in approving educational institutions for issuance of I-20 forms to prospective foreign students and trainees. There appears to be no realistic alternative to a more "regulatory" role by the U.S. Office of Education (reluctant though it may be) in conjunction with the INS. Probably CU, AID and USIA should also be involved in advisory capacities. At Foreign Service posts, consular and cultural officers should intensify and regularize their consultations on student visa applications.

Again regarding the current appropriations cycle, it would be judicious of the Congress to grant the modest budget requests being made by State for CU's activities and more consular personnel, and by AID for training and other manpower development activities. The "new directions" momentum merits full support.

In near future years the Congress and Administration could well consider a new category of, say, 2,000 federal grants

¹Exceptions might be made for brief pre-arranged stints of practical training, if it is unavailable in the trainees' home countries.

(Kissinger Scholarships?) for exceptionally promising foreign students concentrating in fields of top developmental priority as determined binationally. Also bearing careful examination is the question of putting more resources into the training of paraprofessionals from the LDCs.¹ U.S. labor unions and community colleges could more usefully engage in this technical training activity.

Much must be demanded of our college and university educationalists: sustained top-level attention to international education, improved selection processes with a view to development requirements, global rather than parochial outlooks on the part of department chairpersons, selective restoration of strong Master's level programs, strengthened foreign student advisory services, and provision of 12-month rather than 9-month scholarships, to name a few needs. With sharpened selection techniques including perhaps personal interviews overseas, multi-year grants should not be unthinkable. A grant could automatically convert to a loan if the grantee failed to return to his country after completion of study. All foreign students should be covered by health and accident insurance.

State legislatures should be encouraged to emulate the example of Minnesota, Oregon and Texas, which have authorized some special financial relief to needy foreign students.

Few foreign student advisors want to be considered law

¹Raymond Vernon observed at a recent Harvard/MIT faculty Seminar on Political Development that "one of the main constraints in industrialization is the absence of skilled workers, foremen, and lower-level managers." Charles Susskind of U.C. Berkeley told the writer about the difficulty in putting a laser beam into operation in India--the concept of levelness on the part of the bricklayers building the base stand was too approximate.

enforcement officers." Conversely, few encourage immigration "law breaking." Nearly all feel caught in a tightening bind between their high professional commitment and an unresponsive, form-proliferating federal bureaucracy. It is precisely in such unrewarding and probably temporary circumstances that the community of foreign student specialists must resolve to continue to be responsible both to its charges and to properly executed government regulations. To seek improvements in law and regulation is commendable. To bend them can be, to put it mildly, counterproductive. For example, widespread abuse of exchange visitor programs--by certifying participation solely for the purpose of enabling dependents to apply for permission to work--could result in appreciable constrictions on the use of J visas for bona fide students. Such visas are proper only for those to whom the "two year rule"¹ applies, or for those to whom the host institution provides substantial financial support and whose return home it undertakes a moral commitment to encourage.

All parties concerned need to work together for the consistent and timely accumulation and dissemination of more complete statistical data on foreign students and their financing. This is vital to intelligent long-range policy planning. But the "non-completion" of exhaustive statistical study is not a valid excuse for delaying program reforms which are seen as reasonably sound by the principal actors, in and outside the government.

¹ Briefly, an exchange visitor who participates in a program financed in whole or in part by the U.S. Government or by the participant's government, or who has specialized knowledge or skill designated by the Secretary of State as required by the participant's country of nationality or last residence, must return to and reside in that country for two years before becoming eligible to apply for an immigrant visa.

Last and not the least controversial of this promoter's proposals here is a recommendation that the two- (or more) year rule be applied with rare exception to all F visa foreign students and to all exchange visitors. Which brings us to--

2. Brain Drains and Overflows, Adjusted and Certified

"The Egyptian-born Greek grammarian Athenaios or Athenaeus of Naucratis (170-230) referred to the 'drain of Greek brains to Alexandria' in his Deipnosophistai"¹

"Give me your gifted, your educated few yearning to strike it rich."²

Goals, Trends, Conditioning Factors, Projections
Theories

No detailed examination need be made here of the cross-purposeful goals, trends and conditioning factors involved in the phenomenon of migration of skilled talent from poorer countries to richer ones. Much has been written about the subject,³ and the United Nations Organization, among others, is not allowing us to forget about it.⁴ Several balanced, comprehensive studies, notably the works by Adams (ed.),

¹W. Brickman, in book review in International Migration Review, Vol. 70, Winter 1973, p. 462.

²Martin Mayer, "How We Loot the Foreign Brain Market," Saturday Evening Post, Vol. 241 (July 13, 1968), quoted in Justus M. van der Droef, "The U.S. and the World's Brain Drain," International Review of Comparative Sociology, Vol. 71, No. 3, (September, 1970), p. 231.

³3,000 books and articles on the brain drain were identified in 1967. Allan McKnight, Scientists Abroad (Paris, UNESCO, 1971), p. 50.

⁴Secretary General, "Outflow of Trained Personnel from Developing to Developed Countries," Report for Committee on Science and Technology for Development, ECOSOC, January 18, 1974.

Glaeser, Henderson and Meyers, are available.¹

Very generally, there are two schools of thought: the "internationalist" or "cosmopolitan," and the "nationalist" (in the sense of fairly direct responsiveness to individual poor countries' development needs). The first school includes abstraction-prone economists,² many moralists who place individual "free choice" above world general welfare, and various bureaucratically self-serving pressure groups including U.S. universities.³ Typically in their literature, one is told it would be a terrible waste for mankind if extraordinarily brilliant scientists were forced to return from advanced research institutions in the West to their less-developed homelands. They observe that emigration of educated people from some parts of the Third World represents an overflow of talent for which there is no effective economic demand at home. They rightly note that emigration of educated unemployed or underemployed serves as a kind of socio-political safety valve. They perceive nothing very wrong with competition among unequals in what Dean Rusk termed "an international market of

¹Walter F. Adams, ed., The Brain Drain, (New York: Macmillan, 1968); William A. Glaeser's studies for UNITAR, The Migration and Return of Professionals, and Brain Drain and Study Abroad (New York: Columbia University, Bureau of Applied Social Research, 1973 and 1974); Gregory Henderson, The Emigration of Highly Skilled Manpower from the Developing Countries (New York: UNITAR, Reprinted 1972), and Robert G. Meyers, Education and Emigration (New York: David McKay, 1972).

²About some of these, John C. Shearer aptly observed that "the mere application of systematic thought and of orthodox economic theory should not...prevail over common sense and informed judgment based upon empirical knowledge and experience." "In Defense of Traditional Views of the 'Brain Drain' Problem," Exchange (Fall 1966), p. 18.

³Justus M. van der Kroef, "Asia's 'Brain Drain'", Journal of Higher Education (Vol. XXXIX, No. 5, May 1968), p. 252.

brains."¹ If Jamaica's development is impeded because so many of its physicians go to the U.S. and Canada that it must import physicians from Korea,² so free choice works in a competitively interdependent world.

In rejoinder to the "brilliant scientist" argument, the national-developmentalists cite examples of seed talent and organizational leadership such as Homi Bhabha provided. They maintain that the educated migrants from poor countries should instead be the agents of development, the change purveyors,³ of whom every nation needs a critical mass to trigger significant modernization. They say the siphoning off of allegedly overproduced medical graduates, engineers, etc. from poor countries compounds the reluctance of such professionals to go out into the rural areas where they are needed, and postpones essential restructuring of colonial educational systems. Indeed, they suggest with regard to the safety valve that lots of frustrated intellectuals are exactly what some countries need to break down social and political barriers to development.⁴ They think the brain drain is a partial cause of

¹Quoted in Schwartz, Open Society, op. cit., p. 133.

²Committee on the International Migration of Talent, Charles V. Kidd, Chairman, Modernization and the Migration of Talent (New York: Education and World Affairs, 1970), p. 18.

³Malcolm S. Adiseshiah, "Brain Drain from the Arab World" (Cairo, Arab League, December 22, 1969; UNESCO DDG/ 69/13) p. 11. Adiseshiah cited a study which found that the drain of scientists to the West had frozen the development of some Arab national universities for a decade.

⁴Report of a Ditchley Park Conference on International Migration of Talent From and To the Less-Developed Countries, C.H.G. Oldham, Rapp., February 1968, The Ditchley Foundation, Enstone, England.

unemployment and that it aggravates inequality within the LDCs.¹ They stress that many developing countries have no "glut" of educated people.² They regard our continued heavy reliance on medical personnel from poor countries as a "national shame" in the way it works against the interests of U.S. minorities.³

So much for necessarily oversimplified characterizations of the two schools.

Actions

No sharply drawn line divides the theorists. Moreover, most experts of both persuasions agree it is largely up to the skill-exporting poor countries rather than the importers to take the difficult actions required to limit damage to development. To retain needed professionals they can impose tighter passport and foreign exchange restrictions.⁴ They can enhance repatriation inducements of professional and personal nature. (Oil booms help.) They can more carefully select students for training abroad, and provide their embassies

¹Richard Jolly and Dudley Seers, "The Brain Drain and the Development Process," in Gustav Ranis, ed., The Gap Between the Rich and Poor Nations (London: Macmillan, 1972), pp. 374, 375.

²With rapid population growth wiping out previous gains in Latin America, "educational needs at preuniversity levels and in teachers training are enormous," National Liaison Committee, Foreign Graduate Student, op. cit., p. 48.

³Robert A. Moore, quoted in "Now A Growing Surge of Immigrants from Asia," U.S. News & World Report, November 26, 1973, p. 95.

⁴An Indonesian ban on work abroad by its doctors and nurses was reported by the Buffalo Courier-Express on October 3, 1973. The Philippines recently mandated a period of domestic service for its doctors and engineers. The Boston Globe, Deckle McLean, May 5, 1974.

with adequate resources to stay in frequent touch with them. They can require ambitious youths to study to the highest level available at home and to work there a year or two before becoming eligible to study abroad.¹ More basically, they can, if great political will is mustered, restructure their educational and income systems, reducing premiums put on "intellectual" professions.²

But a little assistance continues to be needed from the rich countries, and a modicum of self-denial.

In the previous section a few positive thrusts were remarked. Foundations and international agencies are helping with other constructive human resources, development, and retention projects. The Milbank Memorial Fund and the Rockefeller Foundation are collaborating with medical schools in Columbia.³ An IDA credit is assisting India to stimulate small-scale labor-intensive industries, many in rural areas.⁴ The World Bank, UN agencies and other donors are aiding the consolidation of developmentally relevant research "centers of excellence" such as the International Crops Research Institute for the Semi-Arid Tropics in Andhra Pradesh.⁵ Harvard Business School is helping to develop a first-rate business school in Tehran.

¹A. Parthasarathi, "Some Suggestions for National and International Action to Combat the Flight of Talent from Developing Countries," 19th Pugwash Conference, Sochi, October, 1969, p. 3.

²See V. M. Dandekar, "India," in Adams, Brain Drain, op. cit., pp. 202-231, and Gunnar Myrdal, Against the Stream (New York: Pantheon, 1972), pp. 115, 116.

³Kidd, Modernization, op. cit., p. 51.

⁴World Bank/IDA Annual Report 1973, p. 44.

The Midwest Universities Consortium for International Activities has considerable experience in institutional link-forging.¹ To help overcome the foreign students' fear of professional isolation should they return home, more can be done to develop binational and multinational ties at the departmental level, and between individual professors here and abroad.² Joint research projects oriented toward solving such mutual problems as urban living and environmental control can provide vibrant, ongoing linkages.³ Unless the foreign student employment problem here eases, some full scholarships can include partial travel cost of summer visits home if jobs are available there. The strength or weakness of home ties is an important factor in decisions about where to settle. This is particularly so at the undergraduate level.⁴

Perhaps the most important question in this context is the kind of advice students from developing countries receive on campus about repatriation. It is mixed. Few senior academic administrators seem to have given the question incisive consideration. Foreign student advisors usually counsel repatriation. Department chairmen and other faculty members sometimes urge staying in the U.S. Such advice is often related to the professor's own research requirements which may

¹Rose Hayden, "MUCIA-The Consortium Approach to International Cooperation," Exchange, Summer 1973, pp. 57-66.

²Michael J. Moravcsik, "Foreign Students in the Natural Sciences: A Growing Challenge," Exchange, Summer 1973, pp. 45-56.

³Charles F. Sweet, Project Director, The Senior Fulbright Program and Its U.S. Domestic Impact; (Washington: Development Alternatives, Inc., 1973) pp. vi, 42.

⁴Non-wealthy foreign students now in the U.S. are wary about home visits, for most must renew their visas under the stricter financial proof rule.

be wholly unrelated to the milieu from which the foreign student came. There are more than a few cases of foreign graduate students' being persuaded to take teaching assistantships and research fellowships which provide stipends too modest to attract competent Americans. Several surveys have found that insofar as the foreign student is advised at all by faculty members about staying on in the U.S. or going home after completing the level of study for which he came, the advice a little more often than not is to remain in the U.S.¹ Even making allowance for the blinders worn by some narrow academic specialists, this is a stunning commentary on the low priority a portion of the American intellectual community now gives to Third World development.

* * *

That international organizations themselves contribute to brain drain has been noted by experts on the problem. Many of the best-educated and most competent persons in some LDCs have been lured away to work permanently as international officials.² Seers contends that if exceptional professionals have offers from FAO, UNESCO, etc., local salary scales tend to rise towards the levels of the international market, and it becomes more difficult for LDCs to achieve the desirable objective of reducing the range of salaries in government

¹The latest such survey is Glaser's. See Brain Drain, op. cit., p. VII-38. 11% of the students were advised to stay in the U.S., 10% to repatriate. Glaser notes that because 79% of the teachers gave no advice, they had a weaker influence on students' migration than any other source of advice in his data.

²Frederick Harbinson and Charles A. Meyers, Education, Manpower and Economic Growth, (New York: McGraw-Hill, 1964), p. 59. See also McKnight, Scientists Abroad, op. cit., p. 102.

service.¹ While this observer was serving in Madras recently, one of Tamil Nadu's most brilliant and effective senior civil servants left to work for the World Bank. No case of overflow, that.

U.S. "Policy" and Practice

Now let us focus on some things the U.S. Government has done and not done over the last decade regarding the import of talent and skills from developing countries. Policy indications are briefly reviewed below, and the special case of the medical profession touched upon. Highlights of the labor certification issue are cited. A question is raised about poststudy "practical training" of foreign students. Our adjustment of status system is criticized.

In terms of migration theory, U.S. practice has shown marked preference for the "internationalist," (i.e., highest bidder wins) concept. Leaving aside the question about effects this may have had on our minorities' opportunities, it has been economically advantageous to some business groups and has made life a little easier for various citizen professionals and other consumers of relatively inexpensive foreign labor. As the unintended brain drain stimuli of the 1965 Act began to be felt, Senator Walter F. Mondale suggested the negotiation of bilateral agreements with severely affected developing countries, to modify the effect.² In March 1967 the Senate Subcommittee on Immigration and Naturalization, presided over by Senator Kennedy, held two days of hearings and collected

¹Dudley Seers, "The Brain Drain from Poor Countries," Communications Series 31, Institute of Development Studies, University of Sussex, (Brighton, 1969), p. 4. Uganda was the example used.

²Congressional Record, Vol. 112, No. 146, August 31, 1966.

relevant data.¹ Then-Assistant Secretary of State (CU) Charles Frankel minimized the problem. His testimony regarding the number of foreign students who remained in the U.S. was disputed by Mondale.² In May, however, State proposed legislation which would have applied the "two-year rule" to some F visa students.³ Nothing came of this, though a July Congressional staff study suggested that the U.S. agree with Aid-receiving countries to honor commitments by their nationals to return home after study, training or research here.⁴ In March 1968 the Committee on Government Operations termed the high proportion of student nonreturn "particularly serious," and recommended that federal agencies require F visa students wishing to work on certain federally-financed R & D projects to obtain J visas, i.e., be subject to the two-year rule.⁵

However, effective political pressure worked in the opposite direction. A mounting accumulation of private bills on behalf of J visa holders who sought waivers of the two-year rule led to the approval on April 7, 1970 of PL 91-225, which did away with the two-year requirement for exchange visitors

¹International Migration of Talent and Skills, Hearings, March 6 and 10, 1967 (Washington: U.S. GPO, 1968).

²Ibid., pp. 14, 87, 91. See also John C. Shearer, "International Migration of Talent and the Foreign Student," 22nd Annual Meeting of the Industrial Relations Research Association, December 30, 1969, p. 262.

³International Migration Hearings, op. cit., p. 149.

⁴The Brain Drain into the United States of Scientists, Engineers, and Physicians, Staff Study for the Research and Technical Programs Subcommittee of the Committee on Government Operations, House of Representatives, (U.S. GPO, 1967), p. 15.

⁵Scientific Brain Drain from the Developing Countries, Twenty-Third Report of the Committee on Government Operations, House Report No. 1215, March 28, 1968, pp. 7-11.

except those in the government-financed or Country Skills List categories noted in the previous section.¹ (On behalf of NAFSA, Eugene R. Chamberlain of MIT had urged that non-governmental exchange visitor sponsors also have a decisive role regarding the participants' return home.²) State Department witnesses had testified that the relaxation of the two-year rule would not likely result in a significant change in the number of exchange visitors applying for changes of status.³ This obviously proved so in terms of petitions granted for waivers of the two-year rule, as the number covered by that rule was much lower.⁴ But by FY 1972 the number of adjustments by exchange visitors to permanent resident alien status had shot up to over 6,000, some 400% more than the pre-1970 annual waiver average.⁵ In June 1972 the State Department surfaced a proposal, reportedly advocated by the INS, to restrict the use of J visas largely to full-time students to

¹Gregory Henderson, "Brain Drain Revisited: United States Legislation and its Results," Memorandum, March, 1972, p. 4. Elements of the medical care business lobbied for the relaxation of the two-year rule.

²Immigration: Nonimmigrant Visas, Hearings Before Subcommittee No. 1 of the Committee on the Judiciary, House of Representatives, Serial No. 91-9, 1969, p. 286. This reasonable proposal was not adopted.

³Ibid., pp. 12, 30, 34.

⁴Waivers of the two-year rule are possible by petition, provided one of four conditions obtains. One is that the petitioner's government has no objection, that the State Department recommends a waiver, and that the INS decides to grant it. The governments of some skill-exporting countries, e.g., India and the Philippines, rarely object. Nigeria and some others more often want repatriation of exchange visitors.

⁵In FY 73, some 4,500 exchange visitors and 2,400 J visa dependents adjusted status. So did almost 10,000 F visa students. INS Annual Report 1973, p. 33.

whom the two-year rule applies. The academic community voiced alarm, in view of J visa holders' relatively advantageous employment privilege, and the question remains under study.

Problems of Statistics

Forthright statistical data, of a nature to enable the layman to examine recent U.S. imports of employable talents and skills on a country-by-country basis and according to well defined occupational categories, are not published. The INS Annual Report does not tell us, for instance, how many of the some 8,600 "professional, technical and kindred workers" who immigrated from The Philippines in FY 73 (Table 8) are to be counted among the some 7,100 physicians and surgeons admitted worldwide (Table 8A). The Report does reveal that of those 7,100, about 5,400 came outside the occupational preference categories.¹ Though more than half of our immigrants are non-workers,² "dependent" spouses of some immigrants enter professional and other labor forces. Thus, absolutely complete holdings of relevant data cannot be accumulated. However, there exist many pertinent data, including adjustment of status statistics, which are not easily available to the public.

From FY 67 to FY 70, the INS with State Department support published a very useful Annual Indicator of Immigration to the United States of Aliens in Professional and Related Occupations. It was unfortunately discontinued on the grounds that demand for the data had diminished and that INS' (future)

¹Of the 1,700 who benefitted from occupational preferences, more than 1,000 adjusted from nonimmigrant status.

²Barbara Watson, "Immigration Today," International Migration Review, Vol. IV, No. 2 (Spring, 1970), p. 50.

comprehensive computerized data system would supplant the need for the Indicator. The FY 1969 edition included such immigration data as:

Of the 555 natural scientists who adjusted status, 155 were from Taiwan and China, and 122 from India.

Of the 695 professors and instructors who adjusted status, 179 were from India and 121 from Taiwan and China.

Of the 67 H-1 visa holders (persons of distinguished merit) from Asia who adjusted status, 23 were from Japan and 13 from India.

Of 80 Indian professors and instructors in the natural sciences who adjusted status, 4 were agronomists, 15 biologists and 24 mathematicians.

A Medical Mess

Despite statistical deficiencies, the immigration and "exchange visits" of foreign medical graduates (FMGs) are so important to our health care economy and so multicontroversial that they have been the subject of considerable solid research. Seminal work has been done by Stevens and Vermeulen,¹ and further breakthroughs made by Robert J. Weiss with a team at Harvard Medical School.² Here follow a few of Stevens' and

¹Rosemary Stevens and Joan Vermeulen, Foreign Trained Physicians and American Medicine, (Washington: DHEW Publication No. NIH 73-325, 1972).

²Forthcoming publications are: Weiss et al., Foreign Medical Graduates as a Medical Underground; J. C. Kleinman et al., Physician Manpower Data: The Case of the Missing Foreign Medical Graduates, and Weiss et al., The Effect of Importing Physicians: Return to a PreFlexnerian Era. The writer is grateful to Drs. Weiss and Dieter Koch-Weser of HMS for signally edifying interviews and materials.

Vermeulen's fundings and conclusions.

Almost 1/5 of the physicians practicing in the U.S. are foreign medical graduates. Of the 63,000+, 21,000 were trained in Asia; 10,000 in Latin America. FMGs provide 1/3 of all physicians in hospital-based practice; nearly 1/2 the full-time hospital physicians in anesthesiology. Import of FMGs represents a huge net gain for the U.S. in terms of value received for medical education. The separate systems for credentialing U.S.-trained physicians and FMGs are structured very differently. Providing FMGs with unrealistic training opportunities tends to reinforce any inadequacies in earlier training. The exchange visitor visa became the common vehicle for American hospitals to import trained house staff. Logic suggests limitation of the Exchange Visitor to those sponsored by their own governments or institutions, or under a much better coordinated American sponsorship, or both. The American approach appears to be moving more towards emphasizing national needs than international concerns. To speak of a shortage in the U.S., with one physician to every 600 population, in comparison to countries with ratios of 1:3,000 or 1:20,000, raises far-reaching questions as to the international responsibility of the U.S. The use of visa occupational preferences to discriminate in favor of physicians needs serious reappraisal.¹

The Weiss team, combining previously unretrieved INS data with other extensive data holdings for the FY 62-71 decade, "found" 9,000 FMGs who entered our medical manpower pool unbeknownst to the American Medical Association. A Rand study observed that a large number of FMGs, not classified as doctors

¹From pp. xi, 1, 19, 36, 46, 55, 70, 79, 82, 83.

because they had not passed state licensing examinations, were in active practice.¹ In the 1962-71 period, 1/4 of our immigrant physicians could not secure licenses.² Of important note in this connection is that a physician immigrating under the Third Preference category as a "member of the professions," or indeed under any category,

need not have passed the examination administered by the Educational Council for Foreign Medical Graduates (ECFMG) or any other U.S.-administered professional test.

Many foreign nurses too, particularly from Korea and The Philippines, have licensing problems. In 1973, 85% of the foreign nursing graduates who took California's licensing examination for the first time failed it, as did 83% of those who repeated the exam.³ In some other states, temporary licenses are granted rather freely. Profit-making employment agencies recruit foreign nurses, some possessing little English, for nursing homes and hospitals. Although many (2,700 in FY 73) come on nonimmigrant H visas, immigration is a frequent intention.

¹Luft, Harold, Determinants of the Flow of Physicians to the United States (Santa Monica: The Rand Corporation, 1970), p. 15. Canada recently required prospective immigrants to meet provincial or other licensing requirements. New York Times, February 24, 1974.

²Thomas A. Dublin, "The Migration of Physicians to the United States," New England Journal of Medicine, op. cit., p. 874.

³Percentages derived from data furnished by Michael R. Buggy, Executive Secretary, Board of Nursing Education and Nurse Registration, Sacramento. Personal communication, January 24, 1974. Buggy thinks the foreseeable demand for registered nurses can be met without imports.

Harvard experts predict that if the present trend continues, by the turn of the century 1/2 of our physicians will be FMGs.¹ Their recent survey of FMGs and foreign advanced medical degree holders working at Harvard Medical School or one of its nine affiliated hospitals in 1972 found about 1/3 of the exchange visitors planning to remain permanently in the U.S., or "uncertain." HMS encourages its exchange visitors to return home; many medical institutions urge them to stay.

Among the several troubling aspects of our medical manpower import program has been the creation of a de facto "two caste" system in the profession. Most FMGs find relatively low-paying positions in metropolitan and Veterans Administration hospitals. They do much of the routine staff work; perform the less popular medical chores. Exchange visitors sometimes receive little training, and what there is of it often weakly relates to medical challenges in their home countries. In smaller town hospitals, FMGs free native doctors for pursuit of more remunerative private outside business. Deutsch's explanation of earlier discriminatory practice may have application to a dynamic of our medical caste system. He observed that wage discrimination may be combined with the variation of occupation to such a degree that:

The favored group, effectively monopolizing certain occupations, comes to look upon the disfavored workers no longer as substitutes, but rather as complements--and the larger their number and the lower their wages, the

¹Jaime Arias, Dieter Koch-Weser, Theodore Colton, Alfred Yankauer, and Horacio Puga, "Factors Influencing the Migration Plans of Foreign Medical Graduates." (To be published.)

better.¹

This phenomenon has not gone unnoticed abroad. Hernandez Lagos, commenting on the dual job market, wrote; "The immigrants play the role of a true medical proletariat, largely restricted to salaried hospital positions, and oriented toward responding to the needs of low-income groups for whom high-quality private health services are out of the question."² It should be recalled here that first generation immigrants to the U.S. have traditionally been low in the economic pecking order. The upward mobility of FMGs, already evidenced by the act of migration, will be further enhanced to the extent that they meet fairly-set professional standards.

HEW's projections that the U.S. supply of physicians in 1985 will range between 495,000 and 520,000 are based on the assumption that the net annual increases of FMGs working here will range from 3,500 to 5,500.³

HEW is considering proposals for a new qualifying examination which would be required of both FMGs and U.S. MG's for entry into graduate medical education. Its Health Resources Administration will be analyzing the impact of FMGs

¹Karl W. Deutsch, "The Economic Aspects of the Rise of Nationalistic and Racial Pressure Groups," Canadian Journal of Economics and Social Science, Vol. 8, No. 1, February 1942, pp. 113, 114.

²Quoted in Oscar Ozlak and Dante Caputo, "The Migration of Medical Personnel from Latin America to the United States: Toward an Alternative Interpretation," Pan American Conference on Health Manpower Planning, Ottawa, September 1973, HR/CPD/D/17, p. 9. The stimulating Ozlak/Caputo paper examines relationships between the migratory problem and the structures of health services in Latin and North Americas.

³Frank C. Carlucci, Under Secretary, HEW, Personal communication, April 22, 1974.

on our health care system. Closer interagency coordination and augmented data collection on FMG immigration are foreseen.

Last year a staff survey team reported to the House Committee on Foreign Affairs that by discouraging the immigration of physicians from the LDCs, the U.S. could "immeasurably aid the cause of world population control." The team found migration to the U.S. a partial cause of serious doctor shortages in Korea, The Philippines and Thailand.¹

Labor Certification

Under the Act as amended in 1965, certain immigrant visa applicants must obtain a certificate from the Secretary of Labor that there are not sufficient, able, willing and qualified workers available in the U.S. for the employment intended by the applicant, and that his employment will not adversely affect the wages and working conditions of persons in the U.S. similarly employed. Differences exist between our "immigration hemispheres" in application of the labor certification requirement to relatives. For example, an unmarried Jamaican son of a legal permanent resident alien requires certification, while a Jordanian son of such an alien does not.² The more extensive application of the requirement to Western Hemisphere immigrants, imposed before a ceiling was set on WH immigration, reflected concern in the House about rapid population growth

¹U.S. House of Representatives, "U.S. Aid to Population/Family Planning In Asia," Document No. 89-939, February 25, 1973.

²Example derived from table prepared by INS, Report of the Select Commission on Western Hemisphere Immigration (Washington: U.S. GPO, January, 1968), p. 88.

in Latin America.¹

By the labor certification (LC) provision the Congress sought to strengthen the protection of the American labor force, a longstanding consideration in our immigration policy. Whether the provision for individual certification was needed after a ceiling was put on WH immigration is moot. There had been a striking positive relationship between the previous work experience of the 2.2 million working people who immigrated between 1947 and 1965, and the then current needs of the American labor market.² Whether the execution of the LC program has been successful is not moot. It has been ineffectual in terms of the stated purpose. The system of matching immigrant applicants with specific jobs has produced a muddled bureaucratic situation. Successful challenges in the courts of LC denials have compounded the administrative difficulties. The system has been subject to fraudulent abuse, and has contributed substantially to increased practice of deceptive "back door" immigration. The continued special preference administratively afforded to medical professionals³ has helped

¹Charles B. Keely, "Effects of the Manpower Provisions of U.S. Immigration Law," Paper delivered April 17, 1974 at the Population Association of America, New York, pp. 2a, 7. Keely's paper, to be published, is a significant contribution to the field.

²Frank L. Mott, "The Immigrant Worker," The Annals, op. cit., p. 24.

³Specialists with certain qualifications in dietetics, medicine and surgery, nursing, pharmacy and physical therapy are "precertified"; they need neither pre-arranged employment, unless applying for a Sixth Preference visa, nor individual certification.

to inhibit the proper expansion of U.S. training facilities.¹

In North's classic critique of the labor certification program, he found that only 1/3 of the immigrant workers who arrived during the 1969-71 fiscal years carried LCs, that the program touches 1/13 of all the alien workers who arrive in the U.S. annually; that about 40% of the total LCs issued are not used the same year they are issued; that 44% of those issued simply legalize the residence of workers already in the U.S., and that the program has no impact on the macro labor market, and spotty impact on micro market.² To these observations it should be added that within a year after arriving in the U.S., most LC-holders change jobs and quite a number are in different occupations or other localities than the ones to which their certifications obtained.³

The previous Commissioner of the INS testified in early 1968 that there had been an increase in the number of job-seeking nonimmigrants "who because of the labor certification requirements of Section 212 (a) (14) find it necessary or believe it necessary to make the employment contacts in this

¹At least 6,000 Americans are studying medicine at Guadalajara, Bologna and elsewhere abroad. Emanuel Suter, Director, Division of International Medical Education, Association of American Medical Colleges, Washington, Personal communication, March 6, 1974.

²North, Alien Workers, op. cit., pp. iii, 37, 61, 92, 119, 169.

³John H. Sheeran, Chief, Division of Immigration and Rehabilitation Certification, U.S. Employment Service, Manpower Administration, U.S. Department of Labor, Personal communication, February 14, 1974. He, Robert C. Meirer, Jr. and Thomas Toomey of the San Francisco and Boston Regional Labor Offices, respectively, were very helpful in increasing the writer's comprehension of the LC program.

country which are not available to them at home."¹ Senator Brooke concluded after hearings in Boston that the LC requirement appeared to be exacerbating the "problem of encouraging aliens to circumvent the spirit and, in many cases, the letter of the law."² In March 1972 hearings, immigration expert Edith Lowenstein testified that much of the illegal work in the U.S. was caused by the LC requirement, which "does not have such quantitative significance as to justify the extreme technicalities involved "³, and Farrell iterated that aliens were using "the visitor or student route" to enter the U.S. and then to try to find work.⁴ A Labor Department official indicated that the effectiveness of immigrant certification was being debated within the Department.⁵

In early 1973 another major study relating to the LC program was completed.⁶ Among North's and Weissert's recommendations were the adoption of a "negative" certification system to be administered by consular officers on the basis of criteria supplied by the Department of Labor, and the denial

¹Raymond F. Farrell, Immigration: Review of the Operation of the Immigration and Nationality Act as Amended by the Act of October 3, 1965, Hearings Before Subcommittee No. 1 of the Committee on the Judiciary, H. of R., Serial No. 23, 1968, p. 58.

²"Immigration Problems in Massachusetts: Excerpts from a Report of December 6, 1971 by Senator Edward W. Brooke" (Washington: LIMITS, The Committee for Immigration Reform, undated) pp. 2-4.

³Illegal Aliens, Hearings, op. cit., Part 4, p. 1181.

⁴Ibid., Part 5, p. 1333.

⁵Ibid., p. 1362.

⁶David S. North and William G. Weissert, Immigrants and the American Labor Market (Washington: TransCentury Corporation, April 1973.)

of LCs to those working illegally in the U.S. when they filed application. Suggested also was consideration of quantitative flexibility; admission of more workers in prosperous times, less during depressions. Under negative certification, potential immigrant workers would present to the visa officer documents on occupational qualifications, intended employer and place of residence. Applications would not be approved for those wishing to work in overcrowded occupations or depressed areas.

Chairman Eilberg presided over two days of hearings on the LC program in June 1973.¹ By then the Administration had determined that substantial changes were needed in the LC provisions. Associate Manpower Administrator Robert J. Brown proposed the exclusion of aliens who would seek employment in occupations for which the Secretary of Labor determines that (a) there is not a shortage of qualified workers, or (b) the employment of aliens would be inconsistent with U.S. manpower policies and programs. Based on continuing analysis of the labor market, lists would be published periodically, indicating shortages or non-shortages in some 100 occupations and taking into account variations among regions and metropolitan areas. Applicants would not need to have specific job offers, except as such might be required to satisfy the visa officer regarding the public charge provision. In short, the proposed reform would provide for a simpler labor certification system responsive to U.S. needs for certain skills in certain areas, rather than one matching aliens with specific job openings.

¹ Western Hemisphere Immigration, Hearings Before Subcommittee No. 1 on H. R. 981, Serial No. 8, pp. 171-235.

Practical Training

Foreign students may apply to the INS for not more than three periods, each of six months duration, of employment in jobs closely related to their fields of study concentration. Practical training usually is undertaken after completion of academic studies.¹ It enables many students to pay off educational loans and other debts. Others, particularly from graduate business and other professional schools, use the program primarily to gain experience deemed helpful in maximizing employment opportunity in their home countries. Still others, having determined to remain permanently in the U.S., use it as a means to acquire justification for adjustment of status.

Two questions arise. How relevant is much of the post-graduation practical training to home country needs and the realization of the individual's professional expectations? To what extent does the practical training itself contribute to decisions to seek adjustment of status? Regarding the first, Harbison and others have observed that in fields related to technology the practical training most relevant to developing countries can best be obtained in those countries. The need is for "intermediate technologies," labor rather than capital-intensive technology is the U.S.² There are, of course, some fields of endeavor like multinational business management and advanced dietetics, wherein on-the-job training in the U.S. may

¹Practical training is an integral part of some academic programs, at Cincinnati, Detroit's College of Engineering, Harvard's School of Design, and Northeastern, for instance.

²Frederick H. Harbison, "Human Resources as the Wealth of Nations," in August G. Benson, ed., Human Resources Development: The Foreign Student on Campus, Report on AID/NAFSA Workshop III at the University of Maryland, 1972, p. 41.

be very useful. Pertinent to the question of professional advancement, a survey of Indians, Koreans and Thais found that they estimated manpower with five years work experience in the U.S. would receive a salary only 2 to 8% higher (and the Japanese 2% less) than similarly qualified manpower with five years experience in the home country.¹

¹John R. Niland, "Foreign Manpower Trained in the United States: Policy Implications of Non-Return," New York State School of Industrial Relations Reprint from the 23rd Annual Meeting of the Industrial Relations Research Association, 1970, p. 302.

In interviews the writer had with foreign officials concerned about student non-return, several maintained that it was during practical training that many of their young professionals decided to remain permanently in the U.S. Some labor experts, foreign student advisers, and others have noted this. While as an impecunious student one's intention may be to return home, salaried participation in our consumer economy can have a holding effect. Hard data on this conversion process have not been collected; it could be the subject of a useful Master's thesis. One problem is that prospective employers naturally tend to be uninterested in job applicants who will commit themselves to only 6 or 12 or 18 months' work. To promising foreign graduates, employers may suggest "residence".¹ Probably more usual are cases of foreign youths whose decision to immigrate preceded application for practical training, indeed, some before student visa application. The 18-month training is viewed by many as a grace period to gain employers' support for visa adjustment.² They tend

¹Kulwant Singh, "Indian Professionals and Students in the United States ", Paper prepared for Annual Meeting of International Studies Association, Pittsburgh, April 2-4, 1970, p. 28.

²Meyers, Education & Emigration, op. cit., p. 331.

to be hard workers, willing to accept a little less than the going pay rate. Employers are quite prepared to tailor job descriptions so as to facilitate the employees' adjustment of status.

In the previously described LASPAU program, practical training applications are supported very rarely. The sponsoring Latin American university must first confirm that the training is essential, and will not complicate the participant's reinstatement on the faculty. Niland has suggested other ways to harmonize the interests of the student, his home country, and the U.S. in the practical training system: a student who foresaw the need for training would so indicate on his visa application; after a certain period, a portion of the trainee's earning would be repatriated to a government savings account; conversion to immigrant status would be subject to more rigid conditions.¹

Adjustment from Nonimmigrant to Permanent Residence Status

Section 245 of the Act, dating from 1952, provides that the status of an Eastern Hemisphere alien (other than a crewman) who was lawfully admitted, may on application be adjusted by the Attorney General to permanent residence if the alien is eligible to receive an immigrant visa and such

¹ibid., p. 332.

visa "is immediately available to him at the time his application is approved". ("Immediate" is defined as within 90 days.) This provision was enacted to make it easier for temporary visitors who decided at some point, often before applying for visas, to settle in the U.S. In FY 73, Section 245 adjustments accounted for about 15% of our legal immigration. 37% of the Indian immigrants were adjustees, and 25% of the immigrants from Thailand and the UAR.

In its valuable survey of 8,000 scientists and engineers who attained immigrant status between February 1964 and January 1969, the National Science Foundation found that 4,675 of them (excluding some parolees and conditional entrants) had entered the U.S. with nonimmigrant visas. About 46% of these latter had come as F students, 21% as visitors for pleasure, and 17% as J exchange visitors or students. Some 23% came from India.¹

In FY 73, students contributed 17% and exchange visitors 7.6% of the some 59,500 adjustments to permanent resident status under Section 245. 20% of all the student adjustees were from China and Taiwan; 13% from India. Of the exchange visitor adjustees, 28% were Indians.² More

¹Immigrant Scientists and Engineers in the United States, National Science Foundation, Survey of Science Resources Series, NSF 73-302 (Washington, U.S. GPO, 1973). Figures derived from data on p. 33.

²Percentages derived from IES Annual Report 1973, Table 6C. Dependents not included.

than 1,000 Iranians who had entered as F students or exchange visitors adjusted last year; Korea, Thailand and The Philippines each furnished more than 850, as did Africa excluding the UAR. All these had been issued passports by their governments, and had been admitted to the U.S., for temporary study or "exchange visiting" here. One-half of the Section 245 adjustments in FY 73 were made by persons who entered as temporary visitors for pleasure. The Philippines and Italy headed the list in this category. Three more statistics: of the some 42,000 Section 245 adjustees whose immigration was subject to numerical limitation, 12% were afforded occupational preference, and 44% could not claim preference by virtue of relationship or occupation.

Although the weight of conventional U.S. wisdom regarding Section 245 seems to be that it is realistic, humane, etc., questions continue to be raised about it. Some Members of Congress, Henderson and others (including many of our consular officers) bring up the awkward issue of honesty. Why should persons who freely choose to enter the U.S. for a temporary purpose not be required to stick to that choice?¹ Why should an alien who succeeds

¹Gregory Henderson, "Foreign Students: Exchange or Immigration", Reprint from International Development Review, December, 1964., pp. 4,5.

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in obtaining a nonimmigrant visa by misrepresentation or lack of candor be permitted a "distinct advantage" over the honest immigrant visa applicant? The former, by virtue of his presence in the U.S., can more easily arrange such employment as to meet the labor certification requirement or the "likely to become a public charge" provision which an applicant abroad must overcome.¹ For visa officers it is remarkably frustrating when, having done their best under the law to winnow intending immigrants from non-immigrant applicants, large numbers of temporary visa-holders enjoy the benefits of Section 245. Completing the circle, the very ease of the adjustment process encourages mala fide applications for nonimmigrant visas.

The other major criticism of Section 245 and the administration thereof comes from those concerned about the loss of skilled people from poor countries to the U.S. Privately, even diplomats from countries with large numbers of educated unemployed would like to see our adjustment system tightened. The INS position on Section 245 adjustment, briefly, is that it would be pointless to make tempor-

¹Report of Select Commission, op. cit., p. 144. Recently a Thai engineering graduate, unable to obtain labor certification in his field, secured it by virtue of being a "Spanish cook". He had worked part-time in a Spanish restaurant. Robert G. Knudsen, Coordinator, International Student Counselling, Fresno State College. Personal communication, March 5, 1974.

ary visitors return home to apply for immigration for which they are eligible and for which visas are immediately available.¹ Foreign and U.S. critics point out that at least then the home governments would have opportunity to influence their nationals' migration plans. Further, immigrant applicants would be screened in accordance with the fairly consistent standards maintained by consular specialists knowledgeable about conditions abroad.

Keely correctly observes that the adjustment process as a whole is used "mainly for regularizing the status of refugees and reuniting families", and is "not primarily a subterfuge to gain immigrant status by temporary workers or students".² What is being addressed by the present writer is F and J visa adjustment³ as an unregulated factor in out-

¹Illegal Aliens, Hearings op. cit., 1971, Part 1, Serial 13, p. 51. The June 3 hearing concerned inter alia the matter of 11,000 Third Preference beneficiaries, mostly medical personnel, who had been permitted to remain in the U.S. despite the non-availability of visa numbers needed to complete their adjustments. See pp. 54-57, 66-69.

²Keely, "Effects of Manpower Provisions", op. cit., pp. 16, 18.

³26.8% of total adjustees, excluding Cuban refugees, in FY 72. *ibid.*, Table 13. Dependents included.

flows of skills and talents from poor countries, and the moral question of Section 245's unintended encouragement of misrepresentation by nonimmigrant visa applicants.

Provisions of a House-approved bill sponsored by Congressman Rodino and a bill sponsored by Senator Kennedy, would extend to natives of the Western Hemisphere the preference system and the applicability of Section 245. This would remove inequities. It would very probably result in increased immigration by Latin American professionals. However, H.R. 982 would deny adjustment to an alien (other than an immediate relative) who "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status". This would go a long way towards resolving the question of principle noted above. The Kennedy bill and H.R. 9409 (favored by the State Department) would increase the number of visas available to those seeking professional or occupational preference and thus would provide further stimulus to the transfer of skilled human resources to the U.S.

Alternatives and Recommendations

Of the options available, the one least likely to attract concerted, sustained controversy in the U.S. -- and in this negative sense, thus the most "reasonable" -- is to slide along in present directions, nibbling occasionally

at isolated aspects of problems raised by our human resources magnetism. Important interest groups could continue to enjoy programs they think maximize the realization of their own goal values. Thus, most colleges could continue to select and train foreign students without reference to Third World development needs. Free choice could reign supreme (especially in cases involving willing research assistants or other nice people). The two-caste system in the health care business could flourish, misusing the exchange visitor's program and otherwise importing skills which other societies paid to develop.

Under this slide and nibble alternative, our immigration law could in the full goodness of time be patched up here and there - - certainly an equitable worldwide system should eventually be established, and something done to discourage illegal employment of Mexican and other aliens. But let's not rock the labor union boat by pushing for reform of the certification system, symbolic though it may only be. Let's just accept permanently these hardworking foreign students, and exchange visitors, and tourists, and temporary workers; why make them go all the way home to hassle with visa officers who might not perceive their virtues? After all, those cookie-pushing visa officers should have known these people did not really mean to return home. If we re-

shape our immigrant visa preference system, let's be guided solely by then current U.S. domestic interests. Those other countries, unless inconvenienced by democratic government,¹ can clamp down on egress if they are hurting.

A second set of alternatives could possibly be developed along a line of all-out human resources assistance to the poor countries. Grant foreign student scholarships only to applicants from the ten or twenty neediest nations. Eliminate at once the immigration bias in favor of medical professionals, and ban nonimmigrant FMGs and nurses. Make compensation payments to poor countries for the resources they expend in educating professionals we want. At present this line appears so unrealistic that it will not be pursued further here.

A third option involves some demanding policy reappraisals and difficult program management tasks. It calls anew for a careful weighing of minimal Third World development needs.-- the satisfaction or non-satisfaction of which will affect us too -- against immigration practices which are convenient to the U.S. in the short run. It proposes a fairly high degree of national manpower planning and development coordination, together with more active bilater-

¹A ban on the emigration of Indian doctors was voided by a High Court in the mid-60s.

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al and multilateral cooperation regarding the movement of skilled persons from poor countries. It suggests that the moral and legal responsibility of foreign students and other temporary visitors to return home be given precedence over the "right" of self-gratification, i.e., "free choice". It raises such hard questions as whether a university should give preference to yet another very, very bright engineering applicant from, say, Hong Kong, over a very bright agricultural science aspirant from say, Kenya.

Regarding immigration law and regulation, it is this promoter's view, firstly, that the virtually complete abolition of the Section 245 adjustment of status privilege would be salutary. Except in rare cases when genuine, narrowly defined "extreme hardship" would result, or when temporary visitors have immediate family members permanently resident in the U.S. and visa numbers are immediately available, immigration to the U.S. would be by the front door.¹ Secondly, the two-year rule should apply to all nonimmigrant foreign students, vocational and industrial trainees, and most exchange visitors. But exchange visitors having government support or substantial support from private sponsors, or whose return home for more than two years is desired by their

¹Prohibition of adjustment of course would not apply to lawfully admitted refugees.

government, would be subject to a four-year rule.¹

It may be said that contemplation of such a stiffening of the adjustment of status system is unrealistic, if only because the Congress and the INS would be swamped by requests for waivers. A State Department official recently opined to the Eilberg Subcommittee that the present adjustment system or something like it would continue to be an integral part of our immigration system.² But a signal advantage of a straightforward, relatively loophole-less adjustment system would be its very lack of discretionary authority. In November 1972 the Canadian Government ruled that nonimmigrants could no longer adjust to immigrant status within Canada. Once it became clear that such a situation obtained in the U.S., that waivers were possible only in certain highly specific circumstances, and that there was nothing individual Congressmen or the INS could do to help supplicants in other circumstances, the pressures for waivers

¹The Government of India recommended in 1971 that FIG exchange visitors be required to reside in their home countries for perhaps as long as four years before being eligible to apply for permanent residence in the U.S. Kathleen H. Williams and Betty A. Lockett, Migration of Foreign Physicians to the United States: The Perspective of the Manpower Planner, HR/CIP/D/20, Pan American Conference on Health Manpower Planning, Ottawa, September 10-14, 1973.

²Curtis W. Tarr, Acting Deputy Under Secretary for Management, Letter of November 9, 1973, in Review of the Administration of the Immigration and Nationality Act, Hearings, Serial No. 22, p. 266.

would subside. So would the successful practice of "non-immigrant" deception, which is scarcely a commendable preliminary to a new life in America.

Thirdly, with regard to the medical personnel issue, this writer first cites observations made in a penetrating study several years ago by a distinguished colleague.¹ He observed that the use of exchange visitor visas in the medical field had not produced cultural exchange, nor had it fostered friendly relations and mutual respect, nor had the programs been relevant to home country needs. Recognizing a long-continuing need for FMGs, Usher suggested medical exchange visitors be put through a one-year orientation program, and that stress be laid on community and national health care services relevant to their home countries.

Indeed there is good reason to restrict the medical exchange visitor programs to approved educational complexes where training is a major component of internship, residency, and graduate nursing.² FMGs and foreign nurses who wish to immigrate would be free to apply for requisite passports and

¹Richard E. Usher, The Impact of Foreign Medical Personnel in the United States, Case Study, Senior Seminar in Foreign Policy, Washington, 1969.

²Stevens, Foreign Trained Physicians, op. cit., p. 61.

visas. The U.S. health care system would adapt.¹ The restriction of our importation of trained medical personnel would speed expansion of medical and especially paramedical training facilities here. To ease difficulties in the transition period, the H-2 visa provision could be amended to permit aliens several years of temporary employment in permanent health care jobs until, say, a decade after the amendment is enacted. Meanwhile, HEW's efforts towards ensuring that FMGs working in the U.S. meet fair professional standards could proceed with due speed.

Fourthly, a "negative" labor certification requirement, such as contained in H.R. 9409 and supported by the Departments of Labor and State, should adequately protect the U.S. labor force, and eliminate much fraud and bureaucratic paperwork.

Fifthly, the practical training system could be more finely honed. Foreign students already in the U.S. and who need post-study experience should be favored. Whether or not adjustment of status is rendered more difficult, home country requirements as well as personal needs should loom

¹C.H. William Ruhe, Director, Division of Medical Education, American Medical Association, Immigration: Nonimmigration Visas, Hearings, 1969, op. cit., p. 65. The testimony of Harold Margulies regarding the "opiate of importation" of FMGs, pp. 40-60, is particularly commended.

large in considering practical training applications by future foreign students.

* * *

Partly because of the complexities involved, analysis of proposed changes in the immigration preference category distributions is not made here. Before deciding to stimulate further our intake of those who qualify on professional/occupational grounds, we should conduct the above mentioned manpower reappraisal, taking into full account foreign policy as well as domestic policy implications of our immigration program. A task force for this Herculean work should include such experts as Keely, Margulies, North and Stevens, and should be headed by someone of the stature and broad experience Daniel P. Moynihan possesses.

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Editorial Note

As indicated in the Preface, time factors preclude rounded expository treatment of the remaining "problem areas". These several topics all are important in considering immigration reform, and some of them bear heavily on questions of human resources development and utilization discussed in the preceding section.

Key problems are very briefly sketched, current "states of play" indicated, some personal suggestions advanced, and pertinent references cited for those who wish to pursue these matters further.

* * *

B. Illegal Aliens, and Fraud

Problems

In FY 73 legal immigration totalled 400,000. The number of deportable aliens located by the INS in FY 73 exceeded that number by about 256,000. The number who had entered the U.S. surreptitiously (99% over the Mexican border) and were located, exceeded the number of legal immigrants by 151,000. 88% of the deportable aliens were Mexican nationals.¹ Guesses about the number of deportable aliens not located range from 1 to 10 million. Illegal

¹ INS Annual Report 1973, pp. 8, 9.

aliens are found throughout the country, in industrial and service jobs as well as in agriculture.¹ The problem is not a new one. In 1931 the Secretary of Labor estimated there were 400,000 illegal aliens in the U.S.²

Given the value many people attach to living in the U.S., it is not surprising that fraudulent devices are often employed to gain entry and de jure or at least de facto residence status. Altered, fraudulent or counterfeit passports, nonimmigrant visas, immigration papers and bordercrossing cards are used. Impersonations and false documents are employed in application for visas. Duplicity is used to obtain I-20 Forms and labor certifications. There are indications that the Chinese "immigration slot" system is being tried elsewhere. Sham marriages occur, and some couples here on nonimmigrant visas obtain Reno divorces and marry citizens to acquire resident alien status. The INS completed nearly 15,000 fraud investigations in FY 73, and had about 11,000 cases pending, plus a "tremendous reservoir of potential cases that could be investigated

¹About 19% of the deportable Mexican nationals located in FY 73 were employed in agriculture. Percentage derived from data furnished by INS Deputy Commissioner James F. Greene. Personal communication, March 2, 1974.

²Clark, Deportation, op. cit., p. 253. In a 1930 Message to Congress, President Hoover said of illegal aliens, "the very method of their entry indicated their objectionable character", p. 296.

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with additional manpower".¹

The 5-volume record of 1971-72 hearings on illegal aliens before the Rodino Subcommittee, and subsequent hearings presided over by Chairman Eilberg, provide rich source material², as does the 448-page record of 1973 hearings before the Randall Subcommittee regarding INS regional office operations. In February 1973 the Eilberg Subcommittee released a useful review of its hearings. The following points are drawn from that review.

1. The number of illegal entrants has increased since 1965 and continues to do so.

2. The economic imbalance between the U.S. and the countries from which illegal aliens come, coupled with the easy availability of employment here, accounts in large part for the problem. Other factors are shortage of INS personnel, and immigration legislation restricting temporary and permanent job-related immigration from the Western Hemisphere.

3. The illegal alien problem extends to most major metropolitan areas.

4. Apart from their violation of the immigration law, illegal aliens are not generally involved in criminal or drug-related problems.

5. By virtue of their unlawful status, illegal aliens are subject to exploitation: substandard wages and working conditions, denial of vacation and fringe benefits.

6. Illegal aliens displace American workers, particularly in lower-wage occupations.

¹Commissioner Chapman, April 26, 1974 AICC Address, op. cit.,

²See esp. passages commencing with pp. 137, 559, 684, 746, 1017 and 1429.

7. The ease with which social security cards can be obtained and the misconception that they constitute authorization to work has aggravated the problem.

8. Probably many illegal aliens who are unable to find work end up on welfare. They also over-burden other federal and state service programs.

9. Other expenses created by illegal aliens include their adverse effect on our balance of payments, evasion of income taxes, and the cost of their detention and deportation.

10. Administrative penalties aimed at deterring visitors from accepting unauthorized employment should be enacted.

11. Civil and criminal sanctions upon employers should be imposed to remove the incentives for aliens to enter the U.S. illegally in search of employment and for the employers to exploit this source of cheap labor.

12. Though the "green card" commuter alien is another aspect of the issue, termination of this program would have serious foreign policy implications. Requires further study.

State of Play

H.R. 982, in addition to denying adjustment of status to aliens working without authorization, would bring into play a three-stage legal process against employers who knowingly hire aliens not authorized to work. A body of opinion in the Senate holds that the Rodino Bill's penalties on employers need strengthening, that adequate provision should be made for safeguarding the civil rights of legal resident aliens and "foreign-looking" citizens, and

that some sort of a partial amnesty program should be included.

Regarding "immigration amnesty", Section 244 of the Act affords suspension of deportation to certain aliens (not natives of Mexico, Canada or "adjacent islands") who have continuously resided in the U.S. for 7 or 10 years. Under Section 249, a "record of lawful admission for permanent residence" may be made for certain aliens who entered (unlawfully) before June 30, 1948. The INS had a Chinese amnesty program in 1956-65.¹ In a 60-day Canadian amnesty program in 1973, "landed status" was granted to some 50,000 persons,² but some of these were nonimmigrants not necessarily out of status, rather than illegal aliens.

The Senate Judiciary Committee has not held hearings on House-approved or other immigration reform bills, and the prospect for legislation at this session of the Congress is dim.

Meanwhile, progress is being made on the social security card front. Pursuant to PL 92-603 of 1972, the Social Security Administration is seeking to ensure that cards are issued only to those aliens authorized to work, or to those

¹This resulted inter alia in the closing out of some 11,000 Chinese immigration "slots". William T. Flagg, INS Assistant Commissioner, Investigations. Personal interview, April 18, 1974.

²Migration Today, "Immigrants and a No-Growth Society", November 1973, p. 2.

who require cards for other purposes. In the latter cases, the individual's record will be so annotated, and the INS will be informed if subsequent employment is posted to that record. The INS will be notified when applications are made by aliens not authorized to work, or who submit as evidence an expired or invalid immigration documentation.¹ Moreover, HEW has been seized of the matter of requiring federally-supported state welfare programs to exclude individuals not lawfully in the U.S.²

Practice of fraud will likely be substantially reduced by advances being made in document security and personal identity technology. The Visa Office and the INS jointly are working with a private research corporation to develop improved techniques involving their automated data processing systems.³ In time, rapid means to verify the authenticity of visas and of resident alien and border crossing cards, as well as personal identities, should be available at major en-

¹Walter D. Rubenstein, Deputy Assistant Bureau Director, Program Policy, Bureau of Retirement and Survivors Insurance, Social Security Administration. Remarks to AICC Meeting, New York, April 26, 1974. Personal communication, April 24.

²Federal Register (Proposed Rules), Vol. 38, No. 123, June 27, 1973, pp. 16910, and 16911.

³Department of State Newsletter, January 1974.

try points and pertinent consular offices.¹ The proper roles of the various other Federal agencies in alien control are being re-examined.

After years of being left in budgetary wilderness,² the INS is beginning to **satisfy** some of its additional manpower and equipment requirements. For FY 75 it is requesting funds for 250 more border patrol officers and 100 other personnel, and for replacement of old aircraft, automobiles and sensors.³

Suggestions

1. Expeditionary Congressional action to remove incentives for employers to hire aliens illegally in the U.S. and others unauthorized to work. Civil rights safeguards, and denial of adjustment of status privilege to aliens who in the future work unlawfully, should be included. Immigration amnesty for certain aliens who have resided unlawfully in the U.S. for an appreciable period (say, 20 years, or 10 years if they have close relatives who are U.S. citizens or permanent resident aliens) would be equitable.
2. Further responsiveness by the Department of Justice, the Office of Management and Budget, and the Congress to needs of the INS for more manpower, transport equipment and detention facilities, and of the State Department and the INS for secure documentation and modern data retrieval sys-

¹See statements of Richard L. Williams, INS District Director, San Francisco, and of Acting Commissioner James F. Greene, INS Regional Office Operations, Hearings, op. cit., Part 3, pp. 301, 312.

²See Illegal Aliens, Hearings, op. cit., Part 1, p. 285; Part 5, pp. 1307-9; March 7 & 8, 1973 Hearings, Serial No. 1, pp. 10, 11, and Commissioner Chapman's December 12, 1973 letter to the Subcommittee in Review of the Administration of the Immigration and Nationality Act, hearings, op. cit., pp. 276-7. In recent years drug law enforcement has to some extent preempted INS' requirements. A duplicatory Customs Border Patrol is being established.

³Interview with Commissioner Chapman, April 18, 1974.

tems. The INS is a "front line" outfit essential to our socio-economic defense.

3. Continued consultations with the Mexican and other pertinent Governments regarding joint efforts to minimize illegal immigration to the U.S.

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Consequential Postscript

H.R. 395, introduced by Congressman Collier, would inter alia: (a) add to the law a definition of "public charge" - recipient of public assistance or welfare payments, patient in public hospital who does not have sufficient resources to pay normal cost, criminal convicted and confined in prison a certain length of time; (b) make affidavits of support by citizen sponsors of immigrant visa applicants legally binding, and (c) subject to deportation aliens who become public charges within 24 months after being admitted, unless certain mitigating circumstances obtain. Presently, affidavits of support are virtually worthless as guides to visa officers considering whether applicants are likely to become public charges. Some "sponsors" file affidavits for more applicants than they could possibly support. Moreover, it is difficult for the INS to deport immigrants who become public charges if the public assistance rendered has not created a debt for which payment has been demanded and not received. The enactment of something like H.R. 395 would eliminate much flimflam.

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C. Other Mexico/USA Considerations

Problems

It was noted in the previous section that most aliens illegally in the U.S. come from Mexico.¹ Basically what is involved is the working of manpower supply and demand. During and after World War II, large numbers of Mexican farm workers were imported for temporary labor. Pursuant to P.L. 78 and under agreements with the Government of Mexico, between 1951 and 1964 an average of 300,000 were contracted or admitted to the U.S. annually under the "bracero" program.² A year after that program expired the individual labor certification requirement was imposed, and 2½ years later lawful immigration from Mexico was limited by virtue of the Western Hemisphere numerical restriction of 120,000. No Mexican farm workers have been admitted for the purpose of temporary employment since 1967, when only 6,000 were brought in.³ In FY 73, Mexicans used 36% of the WH numbers; total legal immigration from Mexico exceeded 70,000. Many more wanted to come, at least for temporary work, and they slipped across the 2,000 mile long border. Symbiotic cross-border relations have a long tradition.

¹The 550,000+ figure for apprehension includes many "repeaters".

²U.S. Department of Labor, "Farm Labor Developments", January 1965.

³U.S. Department of Labor, Rural Manpower Developments, Fall, 1973.

Mexican residents who legally commute back and forth across the border have significant impact on our labor market in the Southwest. About 50,000 of the regular commuters hold the "green cards" (actually blue) indicating permanent resident alien status.¹ That is, they obtained immigrant visas, but continue to reside in Mexico. Many are former braceros. Other commuters are U.S. citizens. But most are Mexican nationals who "have frequent need to enter the U.S.". In FY 73 alone, the INS issued some 160,000 alien border crossing cards.² Visitors holding such cards are not supposed to work, but many do.

Population pressure against the southern side of the border has mounted rapidly since World War II. Some have been attracted there by Mexico's Border Industries Program which established a free trade industrial zone twelve miles deep.

The question of U.S. need for Mexican farm labor has engendered controversy for more than two decades. Consequential foreign policy issues are involved, along with a tangle of important domestic considerations. The subject has been examined by the Congress exhaustively. Useful sources include the 1950 Report of the Senate Committee on the Judiciary (pp. 573-586) and the records of the following Hearings: Senate on "Extension of the Mexican Farm Labor Program,

¹Keely, Effects of Manpower Provisions, op. cit., Table 6. The INS has noted that the "green card" commuter situation is unusual, and that it is predicated on friendly relations with our neighbors. Report of Select Commission, op. cit., p. 102.

²INS Annual Report, op. cit., p.8. The figure includes Canadians.

1961; Senate on "Importation of Foreign Agricultural Workers", 1965; House on "Immigration", 1970; House on "Illegal Aliens", 1971-3,¹ and House on "Western Hemisphere Immigration", 1973. The main feature of all these hearings was a strong difference of view between agricultural producers and labor spokesmen over the domestic availability of farm workers, particularly during peak harvest periods, given the wages and working conditions offered. It has been clear that the Government of Mexico favors the renewal of the bracero program, with its workers fully protected under our employment laws. Meanwhile, many Mexicans work without authorization on ranches, in food-processing and other industries, and in service occupations.

Another question is the quantum of Mexican immigration to be set when a worldwide U.S. immigration system is established. The Administration favors special annual allowances of 35,000 (rather than the usual 20,000) for Canada and Mexico. Provision for this is also in Senator Kennedy's bill. Congressman Rodino, who had wanted no numerical restrictions on immigration from our contiguous neighbors, advocated the 35,000 idea to no immediate avail.² H.R. 981 would place the 20,000 limitation on all independent WH countries.

¹See esp. Hearings held in Los Angeles, Denver and El Paso, Parts 1 and 2.

²David S. North, "U.S. Government Moving to Cut Back Immigration from Mexico", Agenda, Winter, 1973, pp. 12-14.

State of Play

The INS is strengthening its border control capabilities but has a long way to go, particularly in the absence of sanctions against employers who hire illegal aliens. In June 1972, Presidents Nixon and Echeverria discussed problems of Mexican workers unlawfully in the U.S. According to a press report, the Mexican Government has launched a drive against those who smuggle its citizens across the border.¹ Another press account reported that Secretary Kissinger and Foreign Minister Rabasa recently discussed Mexican proposals for a new treaty regulating entry of farm workers to the U.S.²

Requirements for specially imported Mexican farm workers in the Southwest and South have lessened, due to mechanization and the consolidation of holdings. Of course another reason is that some of the work that still requires hand labor (lemon harvesting, for instance) is being done by Mexicans unlawfully employed, or by "green card" commuters. Moreover, some independent producers who cannot afford to mechanize and yet do not wish to sell out to conglomerates, have difficulty in obtaining harvest labor. This situation may obtain on some Mississippi cotton farms, for example.

¹Houston Chronicle, September 30, 1973.

²New York Times, April 4, 1974, p. 50.

British West Indian agricultural workers are brought in to the Southeast and East for sugar cane and fruit harvesting as H-visa temporary workers. In FY 73 some 12,000 were admitted.¹ But this device is not used for Mexican farm workers.

Organized labor remains opposed to the revival of a bracero-type program, and the mood of the Congress also appears unfavorable.

Beyond the legislative proposals mentioned above, Congressman Richard C. White of Texas has introduced a bill which would inter alia require immigrants to establish permanent residence in the U.S., and would provide a new nonimmigrant visa category for specifically contracted alien employment up to five years in duration.² In both Houses there are bills designed to strengthen the Farm Labor Contractor Registration of 1963 by raising insurance requirements, stiffening penalties, and otherwise.³

Suggestions

It seems to this non-expert on Mexico/U.S. affairs that an equitable "package deal" could be worked out. If both sides were to cope efficaciously with the problem of illegal border-

¹Rural Manpower, op. cit.

²H.R. 10446

³H.R. 7597 and a bill introduced by Senator Gaylord Nelson.

crossing, and if most of the Mexican nationals now unlawfully here were repatriated and the rest "amnestied", there should be scope for a carefully regulated Mexican temporary worker program. This could be accommodated under the H-2 visa category, particularly if it is amended to permit temporary workers to engage in other than "temporary services or labor".¹ Congressman White's proposed new visa category also might be useful.

Something along the lines of H.R. 982 would cut down on unauthorized work by Mexican commuters who do not have immigrant status. As for the present "green carders", a phased program for permanent resettlement in the U.S. might be possible. Relocation loans for those who wanted to move would expedite the process.

Above all, a comprehensive, actively cooperative approach is required. If the Government of Mexico so desires, perhaps more multinational assistance can be secured for development in the interior of the country.

On the question of special immigration ceilings for Mexico and Canada, the arguments on both sides are powerful. If it is decided to afford them "most favored nation" treatment, the limitations might be set lower than 35,000. There is no compelling reason for country (or preference) limitations to be determined so as to approximate demand.

¹ H.R. 981 would so amend it.

The writer is grateful to Mr. Jack J. Miller, Agricultural Producers Labor Committee; Joseph D. Phelan, National Council of Agricultural Employers; Henry Schacht, California Growers and Cannerymen; Daniel W. Sturt, Rural Manpower Service, Department of Labor; R.V. Thornton, Grower-Shipper Vegetable Association; and Father James Vizzard, Legislative Representative of the United Farm Workers, among others, for light on current agricultural labor matters.

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San Francisco Chronicle, "Farm Labor Death Trap", January 16, 1974.

D. Refugees

Properly, the refugee immigration policy of the U.S. is not a "problem area" in the sense that term is used in this paper. Since World War II the Congress, successive Administrations and the informed public have been in accord with the concept that the U.S. should evince priority concern for victims of persecution and oppression. The execution of our refugee intake programs demands sensitivity, political wisdom, and diplomatic finesse on the part of the administrators, and a great deal of support from voluntary service organizations. Both have been forthcoming. Thus this section can be short.

A few statistics. More than a million refugees were admitted to the U.S. between FY 46 and FY 73. According to INS statistics, they included about 189,000 Cubans,¹ 164,000 Poles, 100,000 Germans, 80,000 Yugoslavs, 68,000 Hungarians, 63,000 Italians, 45,000 Soviets, and 8,000 from Africa. The 10,200 refugee preference visa numbers available annually to the Eastern Hemisphere have all been used since FY 69.²

Section 203 (a) (7) of the 1965 Act provides for "conditional entries" of certain refugees from "any Communist or Communist-dominated country or area, or from any country within the general area of the Middle East." Another Act in 1962 had provided for assistance to or on behalf of Cuban refugees in the U.S.³ The Attorney General may "parole" other

¹ Annual Report 1973, Table 6E "Refugees Admitted by Country or Region of Birth." Not included are more than 189,000 Cuban refugees in the U.S. awaiting adjustment of status. Nor are refugees who entered on regular immigrant visas included in the Table.

² John R. Diggins, Jr., AICC Address, op. cit.

³ Louis A. Wiesner, Director, Office of Refugee and Migration Affairs, personal communication, April 2, 1974. The writer is grateful to him and Chris C. Pappas, Jr. for patient assistance.

refugees into the U.S. This authority has been used on behalf of Chinese from Hong Kong, Cubans from Spain, and Asians from Uganda. Parole of certain refugees in and from Chile is being considered.¹

Just two things more need be said here. First, pending Congressional proposals to clarify and otherwise improve our refugee legislation merit support. Both H.R. 981 and S. 2643 would meet the need for (a) redefinition of "refugee" to accord with the 1951 Convention Relating to the Status of Refugees; (b) broadening of conditional entry to apply to refugees from all countries, and (c) adjustment of status provisions for all refugees in the U.S. without charge to hemispheric ceilings. Both bills also provide for the admission of additional refugees if the Secretary of State finds it in the national interest and the Attorney General finds willingness on the part of the Congress.

Second, claims to political asylum by those who venture to the U.S. primarily to seek economic betterment should continue to be firmly resisted. It matters not whether such claimants arrive with visitor visas or in small boats. The potential consequences of lenient precedents are staggering.

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¹Frank B. Kellogg, Special Assistant to the Secretary of State for Refugee and Migration Affairs, "Refugees and Migrants--The Coming Year," Paper, January 1974.

AICC News, Vol. XX Nos. 1/2, February 22, 1974, "Haitian Refugees;" "Intragovernmental Committee for European Migration," pp. 20-23.

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E. The Population Controversy

In 1797 a U.S. Congressman observed that while a liberal immigration policy was satisfactory when the country was new and unsettled, since it had reached maturity and was fully populated, further immigration should be stopped.¹

Problems

The general debate on U.S. domestic population policy is outside the scope of this paper. Proper concern is being expressed about depletion of resources, environmental deterioration, congestion, etc., both by those who hold that the best answer is to reduce further our population growth rate, and by those who perceive the problem primarily as one of economic organization and social mores.

Revelle has remarked that immigrants bring a pair of hands as well as a mouth. He, Petersen and others point to an expected demographic characteristic which may mitigate criticism of our present legal immigration level, namely, the aging structure of our native population.² Kirk predicts a sharp increase in the demand for temporary foreign workers.³

As for the congestion factor, immigrants go where their relatives and friends are, and most of them are in metropolitan areas. Almost 45% of the FY 73 immigrants intended to reside in New York or California.⁴ Immigration adds four to five times more to metropolitan growth than internal migration does.⁵ One

¹Handlin, Immigration, op. cit., p. 203.

²Roger Revelle, Harvard Magazine, December 1973; William Petersen, personal interview, January, 1974. The latter thinks the U.S. will increasingly need a steady stream of young immigrant workers, especially of those willing to do manual labor.

³Dudley Kirk, "Social Effects of Prospective Population Changes in the United States," Paper prepared for CONACYT and AAAS Meeting on Problems of Population, Mexico City, June 27, 1973, p. 20.

⁴Derived from Table, 12, INS Annual Report.

⁵Bernard Berelson, American Immigration and Citizenship Conference, November 2, 1973.

other preliminary point: contrary to popular belief, foreign-born women now have lower fertility rates than native-born women.¹

An important problem of statistical interpretation and usage should be highlighted here. Much of the current disquiet about immigration's contribution to U.S. population growth derives from the way a part of the press has bandied about a questionable measure. The Population Commission Report noted that about 16% of the total population growth in the 1960s was due to "net immigration;" if "net immigration" remained at 400,000, it would account for almost 25% of the total population increase between 1970 and 2000, assuming an average of two children per family.² Between these two sets of statistics was a warning that the increasing relative significance of immigration could be misleading; for if native births and deaths were balanced, immigration would account for 100% of population growth.

Early on, Keely warned of the danger of misinterpretation if the phrase "net civilian immigration" were shortened to "immigration," and cited two New York Times articles which impliedly imputed to alien immigration the population growth attributable to net civilian immigration.³ He thought that misinformed public pressures might result from such reports.

In September, 1973 the New York Times did it again, with the "Should We Pull Up the Gangplank?" piece previously cited. One critic pointed out in rejoinder that net

¹Richard Irwin & Robert Warren, "Demographic Aspects of American Immigration," in Charles F. Westoff & Robert Parke, Jr., eds., Commission on Population Growth and the American Future, Research Reports, I, Demographic and Social Aspects of Population Growth (Washington; U.S. GPO, 1973), p. 176.

²Population and American Future, op. cit., p. 201.

³Charles B. Keely, "Immigration: Considerations on Trends, Prospects, and Policy," in Demographic and Social Aspects, op. cit., 182-3. Net civilian immigration includes inter alien net alien immigration, net arrivals from Puerto Rico, net arrivals of civilian citizens, and emigration.

immigration at present rates would add less than 6% to our population by 2000.¹ Keely has now cast grave doubt on the very appropriateness of the measure used by the Commission and others. He cites four major methodological shortcomings, and iterates that the measure of immigration as a percentage of population growth leads to interpretations which exaggerate the role of immigration as a growth mechanism.²

In Coale's research report for the Commission one finds that if net immigration continues at 400,000 and the total fertility among the foreign-born is 2.11 (replacement level), the fertility of the native population would have to be 1.97 instead of 2.11 to maintain a stationary population. That population would be 8.4% larger than would be a stationary population with the same annual number of births and no immigration. Thus, Coale deemed it "not true" that continued immigration of 400,000 implies indefinitely continued growth of the American population.³

It should be stressed that all these calculations assume no illegal immigration.

State of Play

None of the present immigration reform bills would reduce legal immigration. Senator Kennedy's S. 2643 would set a worldwide ceiling of 300,000 immigrants subject to numerical limitation, an increase of 10,000. It and H.R. 9409 would remove married brothers and sisters of U.S. citizens from preference consideration. Measures taken and proposed to deal with illegal immigration were reviewed in Section B.

¹Edwin P. Reubens, Letter to Editor, New York Times Magazine, October 7, 1973.

²Charles B. Keely, "The Estimation of the Immigration Component of Population Growth," International Migration Review, forthcoming.

³Ansley J. Coale, "Alternative Paths to a Stationary Population," in Demographic and Social Aspects, op. cit., p. 598-9. The U.S. fertility rate now has fallen to 2.08.

Suggestions

Exclusion of married brothers and sisters from the preference category is overdue. Backlogs tend to develop, and pressures to relieve the backlogs. Married siblings could seek to qualify on their own, as "new seed" immigrants.

Rounding off the world ceiling at 300,000 would make little difference in terms of actual U.S. population growth. It might slightly detract from our image as a nation concerned about rapid population growth generally. If and when the U.S. adopts as a national policy the stabilization of its population, it might make sense to limit legal immigration further. One way to do so equitably would be to place under the same global limitation all those, excepting refugees, who are not now subject to numerical limitation.

Incentive schemes--public and private--might be useful to encourage new immigrants to settle in smaller communities where their skills could be employed productively. Qualified physicians could well be the first candidates for such a program. Presumably, the reformed labor certification system, if adopted, would play a distributive role.

Last but not least, as in our other "problem areas," there is need for improved statistics. It is difficult to consider intelligently the immigration/population equation in the absence, for instance, of hard data on emigration.

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V. POLICY AND PROGRAM COORDINATION

A purpose of this paper has been to demonstrate some of the domestic and foreign interactions between and among various aspects of immigration law-making and administration, and human resources development. Too often, bureaucratic pressures--in academia as well as government--are such that it is difficult for busy program managers to see the forest for the trees. When considering foreign student matters, one normally does not think of border security problems. When downgrading a Master's program, one usually does not consider implications for Third World development. When adjusting the status of a foreign visitor, one rarely reflects on how this may encourage deceit on the part of others who wish to settle in the U.S. It is difficult to put the financial problem of bona fide foreign students into perspective when unlawful employment of aliens is rampant.

Among the recommendations advanced in the previous chapter was the convening of high-level policy groups, drawn from relevant public and private organizations, to examine such interactions and to recommend ways by which the long-range interests of the U.S. could best be served. An overall policy focus on the optimal U.S. role in training young people from and in other countries, co-

ordinated with a similar focus on our manpower requirements from abroad, could furnish useful guidelines. Perhaps these policy examinations should be undertaken by a single select commission. To the extent that consensus is achieved and necessary legislation enacted, a reasonably coherent national policy on the development and utilization of foreign human resources could be pursued.

* * *

In recent years there has been improvement in the effectiveness of coordination between the State Department, the Immigration and Naturalization Service and other pertinent federal agencies on problems of alien control. Within the INS, a new Planning and Evaluation Group is studying national immigration policy.

Various suggestions have been made about having visa issuance and immigration enforcement performed by the same agency. There are persuasive reasons against doing this, not the least of which is the need to maintain clear lines of authority for the ambassadors, as the President's representatives abroad. A board of visa appeals has been suggested from time to time. That such an institution would serve a useful purpose is questionable. Consular officers rarely if ever ignore the State Department's recommendations or advisory

opinions on doubtful cases. As a Special Senate Subcommittee concluded in 1950, to allow an appeal from a consul's denial of a visa would be to make a judicial determination of a right when, in fact, a right (to come to the U.S.) does not exist.

* * *

Another idea which has been broached, and which does have much to commend it, is the establishment of a permanent immigration policy board (or commission, or council). In time, it might prove desirable for the Congress to authorize such a board to recommend limited variations in immigration, depending on economic conditions. Meanwhile, the role of the board would be to ensure that program management decisions accorded with overall policy requirements.

The membership of the board should reflect the prerogative of the Congress in immigration matters. This could be accomplished by direct congressional membership and/or the nomination and appointment process. Standing above any federal department, the board would include representatives of the departments most concerned with immigration and related matters such as international education. Public members might include, for instance, a labor leader, an academic or foundation administrator, a businessman, and health care and population experts.

The U.S. stakes in immigration and international education remain high. Policy value goals require continuing assessment. The determination of action alternatives for highest net realization of those goals requires broadly-based and regular coordination. A permanent board could significantly assist the Congress, the Administration and the public to devise and execute the most suitable programs possible in these interconnected fields.

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POSTSCRIPTA

Constructive criticism of this paper at a Center for International Affairs discussion June 4, and subsequent developments, lead me to add several points of clarification and emphasis.

Foreign Students and Vocational Trainees

1. Policy Change

A perceptive article by Bayer has come to my attention.¹ He argues that given the greater balance in the supply-demand situation of highly trained U.S. manpower in the 1970s and the availability of many unfilled student positions in American institutions, greater emphasis be placed on the training of foreign nationals if the educational institutions and their faculties "act in partnership with INS and the State Department to facilitate repatriation." Bayer presents data indicating that more than four-fifths of our two-year colleges, public nonsectarian institutions, and those outside of the West, particularly those in the Southeast, enroll less than 2% of their students from foreign countries.

2. Summer Employment

This topic has been further addressed by the New York Times,

1. Alan E. Bayer, "Foreign Students in American Colleges: Time for Change in Policy and Practice," Research in Higher Education, vol. 1, (APS Publications, 1973), pp. 389-400.

in a slightly more balanced manner than in the article noted on page 48.¹ The June 12 editorial concluded that "the immigration authorities can help avert unnecessary hardship by enforcing the rules with a maximum of compassion and a minimum of rigidity." This is precisely what Commissioner Chapman has directed. For instance, increased tuition and other costs are regarded as "unforeseen circumstances" which may provide grounds for permission to work. I am convinced that senior INS officials are cognizant of the legitimate financial needs of legitimate foreign students. The quality of applications for permission to take summer employment varies widely; at some institutions little effort is made by school authorities to help tailor the applications to individual student situations.

It is quite another question whether a less cumbersome method of regulating foreign student employment may be preferable. As suggested in this paper, with differentiation between foreign students and vocational trainees, reform of the I-20 system, and the strengthening of foreign student services at colleges and universities, the authority to grant permission for off-campus work by bona fide F-visa students (and even their spouses) might well be given to responsible school officials. The INS could conduct spot checks, withdrawing such authority in cases where undue laxity was found.

1. "Foreign Students Assail U.S. Curb on Summer Jobs", June 11; "Students and Jobs", June 12.

3. Vocational School Scandal

The Boston Globe has detailed shady practices by an "institute of business" whose shenanigans in soliciting foreign trainees from Korea, Taiwan and the Caribbean point up the urgent need for improved public control over such institutions.¹ The "institute" and its predecessor inter alia advertised that it was authorized under Federal law to enroll nonimmigrant alien students when in fact it was not, solicited students for courses not offered, and promised students that enrollment would lead to jobs.

Brain Drains and Overflows

Among the aspects of this question deliberately omitted from this paper were remittances from immigrants and nonimmigrant aliens to families in countries of origin, and a myriad of considerations relating to voluntarism in attracting foreign students and practicing professionals back home. I have nothing useful to add to the existing literature on these matters.

1. Compensation

Given the continuing interest at the United Nations in some kind of financial compensation to LDCs for their exports of skilled personnel, perhaps I should not have dismissed this notion so glibly. But the problems of devising and administering an equitable compensation system are as enormous as the moral

1. "School Illegally Assisted Student's Entry to U.S.", May 31, 1974, pp. 1, 39.

questions involved are knotty. A participant in the June 4 session observed that payment of compensation for the education of foreign medical graduates, for instance, would serve further to delay the essential restructuring of Third World medical education required to produce graduates geared to serve the needs of their home health care markets.

2. A Medical Mess

In treating problems of foreign medical personnel I was unaware of a thoughtful reform proposal advanced by Representative William R. Roy. Subsequently a bipartisan group of prominent Senator introduced health manpower legislation which would inter alia drastically reduce the number of foreign-trained doctors who practice in the U.S., institute nationwide standards for the licensing of physicians and dentists, and require health care graduates to work two years in places which require their services.¹

3. Adjustment from Nonimmigrant to Immigrant Status

The "Congressional constituency politics" of this question were properly stressed by a participant in the June 4 discussion. I continue to contend that the national disadvantages of "easy" adjustment of status procedures outweigh its benefits; that most adjustments (except those by bona fide refugees) actually distort the will of the Congress as expressed in the Immigration and Nationality Act. As for international marriages, many are

1. New York Times, "Health Manpower Legislation Is Proposed in Senate", June 6, 1974, p. 18.

inevitable and most are lustrous. The K-visa category takes care of bona fide fiancees and fiances from abroad, and there can be no objection whatsoever to their post-marriage adjustment of status.

Illegal Aliens

Further reflection on and consultations about the corrosive problem of illegal alien employment lead me to wonder if there should be a single, easily identifiable, secure work permit document for all non-citizens who are authorized to pursue gainful employment in the U.S. On the one hand, there is an instinctively negative American reaction against "totalitarian system identity cards." On the other hand, it is too much to ask of U.S. employers that they categorize correctly the various relevant documents now in use. It will be years before Social Security cards can properly be regarded as "work permits." A new, recognizable document for aliens permitted to work -- Mexican and Canadian commuters, permanent resident aliens, students and exchange visitors, multinational enterprise employees, industrial trainees, and temporary agricultural workers alike -- would contribute much to the reduction of honest uncertainty and self-serving obscurantism in the employment of aliens, without depriving anyone of deserved liberty.

Immigration and Naturalization Service Resources

The more I delved into the unwieldy problems examined in this paper, the more convinced I became that a critical element for their abatement was a rather massive increase of public funds and comprehending support for the INS. Congressional examination, and the forceful leadership of Commissioner Chapman, have begun to dent Washington's "chronic structural disinterest" in the ongoing dynamics of our immigration and nonimmigrant visa programs. The Randall Subcommittee's current report¹ points up INS' need for, inter alia, more electronic sensors, radios and helicopters and more manpower to follow investigative leads. Also primary among the Service's requirements, in my view, is a larger, routinized base of up-to-date retrievable data. The same requirement obtains with regard to higher educational institutions' data on foreign students.

June 13, 1974

1. New York Times, (Denny Walsh), "House Panel Estimates U.S. and States Lose \$115-Million a Year in Taxes That Illegal Aliens Escape", June 13, 1974, p. 35.